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THE MAN VERSUS THE STATE

THE MAN VERSUS THE STATE

A Collection of Essays by
HERBERT SPENCER

Edited by
TRUXTUN BEALE

With Critical and
Interpretative Comments
by
WILLIAM HOWARD TAFT, CHARLES W. ELIOT
ELIHU ROOT, HENRY CABOT LODGE, DAVID
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GARDNER

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PUBLISHER'S NOTE

It is due to the interest and energy of Mr. Truxtun Beale that these essays of Herbert Spencer, with comments by eminent Americans, have been gathered together into a book. Mr. Beale has been a student and a disciple of Spencer ever since he became acquainted with his work; he has, indeed, been a sort of lay exponent of the Spencerian philosophy in America. It is a long generation since Spencer did the greatest part of his work, but it is not so long since these essays were new and vital in the world. They are filled with straight thinking and fundamental truths about man's efforts to construct social organisms and state systems, and the inevitable failure of democracy to bring about that perfection of order and social justice of which man has always dreamed. Spencer looked into the world and into the heart of man, and what he found he set down faithfully and without swerving from the truth. Because of their lack of sentimental thinking and their lack of unfounded hope; because of their recognition of truths not altogether pleasing to our social dreams, these essays, after establishing the foundation of all our modern social thinking, were in a fair way to be neglected, if not forgotten by the world, until Mr. Beale conceived the idea of gathering certain of them together and making them into a book. In pursuit of his idea, Mr. Beale travelled about the country enlisting the aid of a few of those leaders of thought in America who know the tremendous value of Spencer's work in our social system; and he succeeded in inducing these men to write critical and interpretative comments on the essays, as they appear in the light of what they can teach us in relation to the problems that are perplexing America to-day. This book is the result of Mr. Beale's adventure in preaching the gospel according to Herbert Spencer.

INTRODUCTION

David Jayne Hill

It was a happy thought on the part of the Honorable Truxtun Beale, when he proposed the reprinting of some of Herbert Spencer's essays on *The Man versus the State*, with comments by distinguished American statesmen and publicists, setting forth the application of the principles advocated in these essays to contemporary conditions in the United States.

Both the essays and the comments upon them are largely preoccupied with the growth of officialism, the extension of official control over the private life and activities of the individual, and the consequent subordination of personal liberty to the dictates of a ruling class acting in the name of the State.

It is worthy of note that the same illogical, and yet apparently fatally directed, procedure that was in operation in England when Herbert Spencer wrote these essays is at present operative in the United States; namely, the gradual imposition of a new bondage in the name of freedom. In both cases this procedure was originally inspired by a desire to substitute voluntary co-operation for social compulsion; but, relying upon State authority as a means of accomplishing this liberation, the result has been the increasing subjection of the citizen to the growing tyranny of officialism.

If the State were, in fact, a wise, beneficent, and provident entity, capable of exercising a truly parental care in protecting the interests and preserving the liberty of the people, the only considerable evil resulting from its unlimited authority would be the weakening of the individual through his complete reliance upon

his benevolent guardian and the consequent suppression of personal initiative, effort, and responsibility. But, in truth, the State possesses none of these characteristics. It is, in reality, merely a sum of legalized relations, in whose name and by whose authority certain definite persons, called the Government, control the activities of the community.

These persons, drawing their sustenance in the form of salaries from the common store, secure in the possession of authority so long as they can suppress individuality and tighten the grasp of government upon the forces of the community, soon discover that they are in the seat of power, and that their prospect of retaining it depends upon the increase of their authority and the diminution of individual liberty. Hence government tends ever to become more coercive, legislation more restrictive, and the State more omnipotent.

From the point of view of the citizen, this is a tendency to be resisted: unless he is willing in the end to turn over to the State everything he possesses, and submit to the sumptuary legislation which the Government, ever seeking to enlarge its functions of supervision and control, desires to impose.

The motives relied upon to support and maintain this system, when carefully analyzed, are found to be very simple. If you will surrender some of your personal liberty, you will receive in return a material advantage. "Allow us," says the Government, "to administer your affairs, and we will procure for you larger dividends; and you, gentlemen, who now have nothing shall have what you desire, for we shall distribute among you what we take from the incomes and inheritances of others. We shall give you less work and more pay, for by our authority we can compel the others to do business without profits. And thus, you perceive, we shall give you a New Freedom!"

With deep philosophic insight, Herbert Spencer laid

bare the whole mechanism of the perpetual conflict between "Man" on the one side and the "State" on the other. He saw in "Over-legislation" the "Coming Slavery," and his predictions have been verified. But the end is not yet, and this volume affords an opportunity to consider with deliberation and in the light of facts what the future is to be.

The Man versus the State

THE STATE V. THE MAN IN AMERICA

Truxtun Beale

The series of essays entitled *The Man versus the State* was written by Herbert Spencer to warn the English people against the blight of officialism. In them he explains in the most masterly manner the mischiefs of over-legislation and over-administration. In America we have had so many bad effects from the same cause, so many illustrations of the evil consequences of the increasing Government control both in State and Nation, that it seems especially useful at this time to republish the essays with comments by eminent living Americans, giving American illustrations of the dangers arising from the increasing officialism in this country.

One can hardly now take up a newspaper without reading of some legislative measure, either State or Federal, which narrows the area of personal freedom and increases that of official control. A historian once observed that all the reforms in Europe were made not by making new laws, but by repealing a large number of the old. Such must be the task of those in America who attempt to reform the work of the present reformers. For many years past we have had no conservative party in the United States, no party to

be a brake upon the accelerating speed with which we are taking people from the producing class to make of them parasitic officials. So obsessed are we with the idea of the efficacy of law-made remedies that a California legislature was gravely congratulated upon the number of laws that it had passed, the "collective wisdom" having turned off the appalling total of 4000 in one short session—a record in the construction of wire entanglements. The three existing parties vie with one another in advocating State agency or State control. Unmindful of Burke's observation that "all innovation is not progress," we have departed from our old conservative traditions. It is to demonstrate the necessity of a return to conservatism, the necessity, as M. Ouizot puts it, of "progress with resistance," that this series of essays will be republished, with their applicability to the present state of affairs in America explained by eminent American commentators.

It would be unfair to stigmatize such a body of men as reactionaries. Many of the names in the following list are associated with great and beneficial reforms. Probably none of them believes that institutional progress has yet ceased. On the other hand, probably very few of them entirely agree with Herbert Spencer in the extreme position he takes against Government control. There are many positions to be taken between what Huxley calls Spencer's "Administrative Nihilism" and German regimentation. Many agree with John Stuart Mill and accept a *laissez faire* as a principle, though liable to many exceptions; but they all warn against the danger of any increase of the official class.

Both the essays and the commentators will demonstrate that officialism is slow, that it is expensive, that it is unadaptive, that it is unprogressive, that it has a tendency to tyrannize and a tendency to become corrupt; that it is as hard to shake off as the old man

of the sea, when once there is created a large official class. They will demonstrate that business enterprise as well as personal liberty is in danger of being lost in the labyrinthine mazes of officialdom. They will demonstrate the impoverishing effect of taking people from the producing class to form an army of officials to be supported out of the fruits of labor. They will demonstrate that a régime of officialism means vast expenditures for obtaining small ends. They will point out the childish impatience of the American people with slow and natural remedies—the only sound ones—and will show that quick remedies are almost always quack remedies. They will demonstrate that under a régime of excessive officialism the State instead of being a protector of rights becomes an aggressor upon rights. They will demonstrate that the habit of leaning upon officials destroys national character and weakens the old American trait of self-reliance. They will attack the apparently inexhaustible faith in law-made remedies and show that the belief in the sovereign power of political machinery is a gross delusion. They will demonstrate that increasing officialism is paving the way for socialism, checking progress and the evolution to a higher state and tending to crystallize social structure upon a lower plane. Finally, the suggested substitute for officialism—quick and costless justice in the courts—will be discussed by Mr. Taft. As a man of business, consciously seeking only a self-regarding end, unconsciously does a public good, so he who seeks justice in a court of law for a self-regarding end alone, unconsciously confers upon the State the public benefit of maintaining the laws in a much more efficient way than can be accomplished by a mass of idle and indifferent officials appointed to prevent infractions of the law.

While of course there are many exceptions, the officials appointed to exercise functions beyond the proper

limits of State control too frequently have a tendency to become either the corrupt tools of capital or demagogues with an irresponsible disregard for the necessities of business.

HERBERT SPENCER'S "THE NEW TORYISM"

WITH COMMENTS BY

ELIHU ROOT

SENATOR ROOT'S COMMENTS

THE writings of Herbert Spencer were so much read and discussed by the generation which is now passing out of active life that, under the laws to which books are subject, the swing of the pendulum has brought a period of comparative neglect by the new generation. He said many true things, however, upon subjects which are always vital, and he said these things with great force and clearness and supported them with admirable reasoning and a wealth of definite, practical illustration. His stimulating influence upon the thought of his own time played a great part in bringing about the more general active interest in public affairs which marks our day, and for that we all owe him a debt of gratitude.

We may not agree with everything that he said; we may find it necessary to modify many of his conclusions, as indeed he did himself during the course of his long life; but we cannot afford to forget what he said, for much of it is directly applicable to the conditions which now exist. New support for many of his positions is to be found in our own recent experience and the evils which he pointed out in the practice of government have become aggravated and plain to all thoughtful students. He was the apostle of the right of individual liberty, limited only by the equal rights of others. He made that the basis of his political philosophy. He tested all laws which limited the freedom of the individual by the question whether those laws were necessary to maintain the equal freedom of others. Many of us, I think most of us in America, believe that to be the true principle, the only principle, upon which

political ethics can rest securely, and we cannot afford to have our belief become a dead and forgotten faith. He preached the danger in making laws of following the apparent expediency of the moment without regard to political principles and the rules of action which principles demand. He warned his readers of the disastrous failures certain to result from such a course and of the gradual deterioration in character which results from the habit of following the easy path of the expedient and becoming indifferent to sound political principles. Every generation needs to think about these things for itself, and we need to think about them now.

If we apply Spencer's article on *The New Toryism* to the United States, we cannot fail to realize the rapidity with which our social organization has been passing from the régime of contract into the régime of status. If we proceed further to consider the great body of laws which have been enacted in recent years by our national and State legislatures, we shall find that many of them go beyond the limits of power which on sound political principles government ought to exercise in restraint of the liberty of the individual citizen. This subject is of more critical importance for us than it was for England when Spencer wrote; for England was a small and in the main a comparatively homogeneous country with little local diversity of public interests, while with us the process is going on not merely in individual States, but, with continually increasing scope and compulsion, in the national Government; and the nation is of vast extent, with many communities widely differing from each other in their traditions and customs and ideas of conduct. So that through the national Government, if that be not restrained by just limits upon governmental power, the individual American is liable to have his status determined and his liberty restrained and his individual con-

duct ordered and limited in accordance with the views and wishes of people who live thousands of miles away and whose ideas are quite different from those of the community in which he resides. Very serious steps have already been taken towards bringing about that very state of things.

Accordingly I think it would be very useful for the American people to read Herbert Spencer again.

THE NEW TORYISM

Herbert Spencer

Most of those who now pass as Liberals, are Tories of a new type. This is a paradox which I propose to justify. That I may justify it, I must first point out what the two political parties originally were; and I must then ask the reader to bear with me while I remind him of facts he is familiar with, that I may impress on him the intrinsic natures of Toryism and Liberalism properly so called.

Dating back to an earlier period than their names, the two political parties at first stood respectively for two opposed types of social organization, broadly distinguishable as the militant and the industrial—types which are characterized, the one by the *régime* of status, almost universal in ancient days, and the other by the *régime* of contract, which has become general in modern days, chiefly among the Western nations, and especially among ourselves and the Americans. If, instead of using the word "co-operation" in a limited sense, we use it in its widest sense, as signifying the combined activities of citizens under whatever system of regulation; then these two are definable as the system of compulsory co-operation and the system of voluntary co-operation. The typical structure of the one

we see in an army formed of conscripts, in which the units in their several grades have to fulfil commands under pain of death, and receive food and clothing and pay, arbitrarily apportioned; while the typical structure of the other we see in a body of producers or distributors, who severally agree to specified payments in return for specified services, and may at will, after due notice, leave the organization if they do not like it.

During social evolution in England, the distinction between these two fundamentally-opposed forms of co-operation made its appearance gradually; but long before the names Tory and Whig came into use, the parties were becoming traceable, and their connections with militancy and industrialism respectively, were vaguely shown. The truth is familiar that, here as elsewhere, it was habitually by town-populations, formed of workers and traders accustomed to co-operate under contract, that resistances were made to that coercive rule which characterizes co-operation under status. While, conversely, co-operation under status, arising from, and adjusted to, chronic warfare, was supported in rural districts, originally peopled by military chiefs and their dependents, where the primitive ideas and traditions survived. Moreover, this contrast in political leanings, shown before Whig and Tory principles became clearly distinguished, continued to be shown afterwards. At the period of the Revolution, "while the villages and smaller towns were monopolized by Tories, the larger cities, the manufacturing districts, and the ports of commerce, formed the strongholds of the Whigs." And that, spite of exceptions, the like general relation still exists, needs no proving.

Such were the natures of the two parties as indicated by their origins. Observe, now, how their natures were indicated by their early doctrines and deeds. Whiggism began with resistance to Charles II. and his cabal,

in their efforts to re-establish unchecked monarchical power. The Whigs "regarded the monarchy as a civil institution, established by the nation for the benefit of all its members"; while with the Tories "the monarch was the delegate of heaven." And these doctrines involved the beliefs, the one that subjection of citizen to ruler was conditional, and the other that it was unconditional. Describing Whig and Tory as conceived at the end of the seventeenth century, some fifty years before he wrote his *Dissertation on Parties*, Bolingbroke says:—

"The power and majesty of the people, and original contract, the authority and independency of Parliaments, liberty, resistance, exclusion, abdication, deposition; these were ideas associated, at that time, to the idea of a Whig, and supposed by every Whig to be incommunicable, and inconsistent with the idea of a Tory.

"Divine, hereditary, indefeasible right, lineal succession, passive obedience, prerogative, non-resistance, slavery, nay, and sometimes popery too, were associated in many minds to the idea of a Tory, and deemed incommunicable and inconsistent, in the same manner, with the idea of a Whig."—*Dissertation on Parties*, p. 5.

And if we compare these descriptions, we see that in the one party there was a desire to resist and decrease the coercive power of the ruler over the subject, and in the other party to maintain or increase his coercive power. This distinction in their aims—a distinction which transcends in meaning and importance all other political distinctions—was displayed in their early doings. Whig principles were exemplified in the Habeas Corpus Act, and in the measure by which judges were made independent of the Crown; in defeat of the Non-Resisting Test Bill, which proposed for legislators and officials a compulsory oath that they would in no case resist the king by arms; and, later, they were exempli-

fied in the Bill of Rights, framed to secure subjects against monarchical aggressions. These Acts had the same intrinsic nature. The principle of compulsory co-operation throughout social life was weakened by them, and the principle of voluntary co-operation strengthened. That at a subsequent period the policy of the party had the same general tendency, is well shown by a remark of Mr. Green concerning the period of Whig power after the death of Anne:—

"Before the fifty years of their rule had passed, Englishmen had forgotten that it was possible to persecute for differences of religion, or to put down the liberty of the press, or to tamper with the administration of justice, or to rule without a Parliament."—*Short History*, p. 705.

And now, passing over the war-period which closed the last century and began this, during which that extension of individual freedom previously gained was lost, and the retrograde movement towards the social type proper to militancy was shown by all kinds of coercive measures, from those which took by force the persons and property of citizens for war-purposes to those which suppressed public meetings and sought to gag the press, let us recall the general characters of those changes effected by Whigs or Liberals after the re-establishment of peace permitted revival of the industrial *régime*, and return to its appropriate type of structure. Under growing Whig influence there came repeal of the laws forbidding combinations among artisans as well as of those which interfered with their freedom of travelling. There was the measure by which, under Whig pressure, Dissenters were allowed to believe as they pleased without suffering certain civil penalties; and there was the Whig measure, carried by Tories under compulsion, which enabled Catholics to profess their religion without losing part of their freedom. The area of liberty was extended by Acts which

forbade the buying of negroes and the holding of them in bondage. The East India Company's monopoly was abolished, and trade with the East made open to all. The political serfdom of the unrepresented was narrowed in area, both by the Reform Bill and the Municipal Reform Bill; so that alike generally and locally, the many were less under the coercion of the few. Dissenters, no longer obliged to submit to the ecclesiastical form of marriage, were made free to wed by a purely civil rite. Later came diminution and removal of restraints on the buying of foreign commodities and the employment of foreign vessels and foreign sailors; and later still the removal of those burdens on the press which were originally imposed to hinder the diffusion of opinion. And of all these changes it is unquestionable that, whether made or not by Liberals themselves, they were made in conformity with principles professed and urged by Liberals.

But why do I enumerate facts so well known to all? Simply because, as intimated at the outset, it seems needful to remind everybody what Liberalism was in the past, that they may perceive its unlikeness to the so-called Liberalism of the present. It would be inexcusable to name these various measures for the purpose of pointing out the character common to them, were it not that in our day men have forgotten their common character. They do not remember that, in one or other way, all these truly Liberal changes diminished compulsory co-operation throughout social life and increased voluntary co-operation. They have forgotten that, in one direction or other, they diminished the range of governmental authority, and increased the area within which each citizen may act unchecked. They have lost sight of the truth that in past times Liberalism habitually stood for individual freedom *versus* State-coercion.

And now comes the inquiry—How is it that Liberals

have lost sight of this? How is it that Liberalism, getting more and more into power, has grown more and more coercive in its legislation? How is it that, either directly through its own majorities or indirectly through aid given in such cases to the majorities of its opponents, Liberalism has to an increasing extent adopted the policy of dictating the actions of citizens, and, by consequence, diminishing the range throughout which their actions remain free? How are we to explain this spreading confusion of thought which has led it, in pursuit of what appears to be public good, to invert the method by which in earlier days it achieved public good?

Unaccountable as at first sight this unconscious change of policy seems, we shall find that it has arisen quite naturally. Given the unanalytical thought ordinarily brought to bear on political matters, and, under existing conditions, nothing else was to be expected. To make this clear some parenthetic explanations are needful.

From the lowest to the highest creatures, intelligence progresses by acts of discrimination; and it continues so to progress among men, from the most ignorant to the most cultured. To class rightly—to put in the same group things which are of essentially the same natures, and in other groups things of natures essentially different—is the fundamental condition to right guidance of actions. Beginning with rudimentary vision, which gives warning that some large opaque body is passing near (just as closed eyes turned to the window, perceiving the shade caused by a hand put before them, tell us of something moving in front), the advance is to developed vision, which, by exactly appreciated combinations of forms, colors, and motions, identifies objects at great distances as prey or enemies, and so makes it possible to improve the adjustments of

conduct for securing food or evading death. That progressing perception of differences and consequent greater correctness of classing, constitutes, under one of its chief aspects, the growth of intelligence, is equally seen when we pass from the relatively simple physical vision to the relatively complex intellectual vision—the vision through the agency of which, things previously grouped by certain external resemblances or by certain extrinsic circumstances, come to be more truly grouped in conformity with their intrinsic structures or natures. Undeveloped intellectual vision is just as indiscriminating and erroneous in its classings as undeveloped physical vision. Instance the early arrangement of plants into the groups, trees, shrubs, and herbs: size, the most conspicuous trait, being the ground of distinction; and the assemblages formed being such as united many plants extremely unlike in their natures, and separated others that are near akin. Or still better, take the popular classification which puts together under the same general name fish and shell-fish, and under the sub-name, shell-fish, puts together crustaceans and molluscs; nay, which goes further, and regards as fish the cetacean mammals. Partly because of the likeness in their modes of life as inhabiting the water, and partly because of some general resemblance in their flavors, creatures that are in their essential natures far more widely separated than a fish is from a bird, are associated in the same class and in the same sub-class.

Now the general truth thus exemplified holds throughout those higher ranges of intellectual vision concerned with things not presentable to the senses, and, among others, such things as political institutions and political measures. For when thinking of these, too, the results of inadequate intellectual faculty, or inadequate culture of it, or both, are erroneous classings and consequent erroneous conclusions. Indeed, the liability to error is here much greater; since the

things with which the intellect is concerned do not admit of examination in the same easy way. You cannot touch or see a political institution: it can be known only by an effort of constructive imagination. Neither can you apprehend by physical perception a political measure: this no less requires a process of mental representation by which its elements are put together in thought, and the essential nature of the combination conceived. Here, therefore, still more than in the cases above named, defective intellectual vision is shown in grouping by external characters, or extrinsic circumstances. How institutions are wrongly classed from this cause, we see in the common notion that the Roman Republic was a popular form of government. Look into the early ideas of the French revolutionists who aimed at an ideal state of freedom, and you find that the political forms and deeds of the Romans were their models; and even now a historian might be named who instances the corruptions of the Roman Republic as showing us what popular government leads to. Yet the resemblance between the institutions of the Romans and free institutions properly so-called, was less than that between a shark and a porpoise—a resemblance of general external form accompanying widely different internal structures. For the Roman Government was that of a small oligarchy within a larger oligarchy: the members of each being unchecked autocrats. A society in which the relatively few men who had political power, and were in a qualified sense free, were so many petty despots, holding not only slaves and dependents but even children in a bondage no less absolute than that in which they held their cattle, was, by its intrinsic nature, more nearly allied to an ordinary despotism than to a society of citizens politically equal.

Passing now to our special question, we may understand the kind of confusion in which Liberalism has lost itself: and the origin of those mistaken classings of po-

litical measures which have misled it—classings, as we shall see, by conspicuous external traits instead of by internal natures. For what, in the popular apprehension and in the apprehension of those who effected them, were the changes made by Liberals in the past? They were abolitions of grievances suffered by the people, or by portions of them: this was the common trait they had which most impressed itself on men's minds. They were mitigations of evils which had directly or indirectly been felt by large classes of citizens, as causes to misery or as hindrances to happiness. And since, in the minds of most, a rectified evil is equivalent to an achieved good, these measures came to be thought of as so many positive benefits; and the welfare of the many came to be conceived alike by Liberal statesmen and Liberal voters as the aim of Liberalism. Hence the confusion. The gaining of a popular good, being the external conspicuous trait common to Liberal measures in earlier days (then in each case gained by a relaxation of restraints), it has happened that popular good has come to be sought by Liberals, not as an end to be indirectly gained by relaxations of restraints, but as the end to be directly gained. And seeking to gain it directly, they have used methods intrinsically opposed to those originally used.

And now, having seen how this reversal of policy has arisen (or partial reversal, I should say, for the recent Burials Act and the efforts to remove all remaining religious inequalities, show continuance of the original policy in certain directions), let us proceed to contemplate the extent to which it has been carried during recent times, and the still greater extent to which the future will see it carried if current ideas and feelings continue to predominate.

Before proceeding, it may be well to say that no reflections are intended on the motives which prompted

one after another of these various restraints and dictations. These motives were doubtless in nearly all cases good. It must be admitted that the restrictions placed by an Act of 1870, on the employment of women and children in Turkey-red dyeing works, were, in intention, no less philanthropic than those of Edward VI., which prescribed the minimum time for which a journeyman should be retained. Without question, the Seed Supply (Ireland) Act of 1880, which empowered guardians to buy seed for poor tenants, and then to see it properly planted, was moved by a desire for public welfare no less great than that which in 1533 prescribed the number of sheep a tenant might keep, or that of 1597, which commanded that decayed houses of husbandry should be rebuilt. Nobody will dispute that the various measures of late years taken for restricting the sale of intoxicating liquors, have been taken as much with a view to public morals as were the measures taken of old for checking the evils of luxury; as, for instance, in the fourteenth century, when diet as well as dress was restricted. Every one must see that the edicts issued by Henry VIII. to prevent the lower classes from playing dice, cards, bowls, etc., were not more prompted by desire for popular welfare than were the acts passed of late to check gambling.

Further, I do not intend here to question the wisdom of these modern interferences, which Conservatives and Liberals vie with one another in multiplying, any more than to question the wisdom of those ancient ones which they in many cases resemble. We will not now consider whether the plans of late adopted for preserving the lives of sailors, are or are not more judicious than that sweeping Scotch measure which, in the middle of the fifteenth century, prohibited captains from leaving harbor during the winter. For the present, it shall remain undebated whether there is a better warrant for giving sanitary officers powers to search certain premises for

unfit food, than there was for the law of Edward III., under which innkeepers at seaports were sworn to search their guests to prevent the exportation of money or plate. We will assume that there is no less sense in that clause of the Canal-boat Act, which forbids an owner to board gratuitously the children of the boatmen, than there was in the Spitalfields Acts, which, up to 1824, for the benefit of the artisans, forbade the manufacturers to fix their factories more than ten miles from the Royal Exchange.

We exclude, then, these questions of philanthropic motive and wise judgment, taking both of them for granted; and have here to concern ourselves solely with the compulsory nature of the measures which, for good or evil as the case may be, have been put in force during periods of Liberal ascendency.

To bring the illustrations within compass, let us commence with 1860, under the second administration of Lord Palmerston. In that year the restrictions of the Factories Act were extended to bleaching and dyeing works; authority was given to provide analysts of food and drink, to be paid out of local rates; there was an Act providing for inspection of gas-works, as well as for fixing quality of gas and limiting price; there was the Act which, in addition to further mine-inspection, made it penal to employ boys under twelve not attending school and unable to read and write. In 1861 occurred an extension of the compulsory provisions of the Factories Act to lace-works; power was given to poor law guardians, etc., to enforce vaccination; local boards were authorized to fix rates of hire for horses, ponies, mules, asses, and boats; and certain locally-formed bodies had given to them powers of taxing the locality for rural drainage and irrigation works, and for supplying water to cattle. In 1862 an Act was passed for restricting the employment of women and children in open air bleaching; and an Act for making illegal a

coal-mine with a single shaft, or with shafts separated by less than a specified space; as well as an Act giving the Council of Medical Education the exclusive right to publish a Pharmacopœia, the price of which is to be fixed by the Treasury. In 1863 came the extension of compulsory vaccination to Scotland, and also to Ireland; there came the empowering of certain boards to borrow money repayable from the local rates, to employ and pay those out of work; there came the authorizing of town-authorities to take possession of neglected ornamental spaces, and rate the inhabitants for their support; there came the Bakehouses Regulation Act, which, besides specifying minimum age of employés occupied between certain hours, prescribed periodical lime-washing, three coats of paint when painted, and cleaning with hot water and soap at least once in six months; and there came also an Act giving a magistrate authority to decide on the wholesomeness or unwholesomeness of food brought before him by an inspector. Of compulsory legislation dating from 1864, may be named an extension of the Factories Act to various additional trades, including regulations for cleansing and ventilation, and specifying of certain employés in match-works, that they might not take meals on the premises except in the wood-cutting places. Also there were passed a Chimney-Sweepers Act, an Act for further regulating the sale of beer in Ireland, an Act for compulsory testing of cables and anchors, an Act extending the Public Works Act of 1863, and the Contagious Diseases Act: which last gave the police, in specified places, powers which, in respect of certain classes of women, abolished sundry of those safeguards to individual freedom established in past times. The year 1865 witnessed further provision for the reception and temporary relief of wanderers at the cost of ratepayers; another public-house closing Act; and an Act making compulsory regulations for extinguishing

fires in London. Then, under the Ministry of Lord John Russell, in 1866, have to be named an Act to regulate cattle-sheds, etc., in Scotland, giving local authorities powers to inspect sanitary conditions and fix the numbers of cattle; an Act forcing hop-growers to label their bags with the year and place of growth and the true weight, and giving police powers of search; an Act to facilitate the building of lodging-houses in Ireland, and providing for regulation of the inmates; a Public Health Act, under which there is registration of lodging-houses and limitation of occupants, with inspection and directions for lime-washing, etc., and a Public Libraries Act, giving local powers by which a majority can tax a minority for their books.

Passing now to the legislation under the first Ministry of Mr. Gladstone, we have, in 1869, the establishment of State-telegraphy, with the accompanying interdict on telegraphing through any other agency; we have the empowering a Secretary of State to regulate hired conveyances in London; we have further and more stringent regulations to prevent cattle-diseases from spreading, another Beerhouse Regulation Act, and a Seabirds Preservation Act (ensuring greater mortality of fish). In 1870 we have a law authorizing the Board of Public Works to make advances for landlords' improvements and for purchase by tenants; we have the Act which enables the Education Department to form school-boards which shall purchase sites for schools, and may provide free schools supported by local rates, and enabling school-boards to pay a child's fees, to compel parents to send their children, etc., etc.; we have a further Factories and Workshops Act, making, among other restrictions, some on the employment of women and children in fruit-preserving and fish-curing works. In 1871 we meet with an amended Merchant Shipping Act, directing officers of the Board of Trade to record the draught of sea-going vessels leaving port;

there is another Factory and Workshops Act, making further restrictions; there is a Pedlars Act, inflicting penalties for hawking without a certificate, and limiting the district within which the certificate holds as well as giving the police power to search pedlars' packs; and there are further measures for enforcing vaccination. The year 1872 had, among other Acts, one which makes it illegal to take for hire more than one child to nurse, unless in a house registered by the authorities, who prescribe the number of infants to be received; it had a Licensing Act, interdicting sale of spirits to those apparently under sixteen; and it had another Merchant Shipping Act, establishing an annual survey of passenger steamers. Then in 1873 was passed the Agricultural Children's Act, which makes it penal for a farmer to employ a child who has neither certificate of elementary education nor of certain prescribed school-attendances; and there was passed a Merchant Shipping Act, requiring on each vessel a scale showing draught and giving the Board of Trade power to fix the numbers of boats and life-saving appliances to be carried.

Turn now to Liberal law-making under the present Ministry. We have, in 1880, a law which forbids conditional advance-notes in payment of sailors' wages; also a law which dictates certain arrangements for the safe carriage of grain-cargoes; also a law increasing local coercion over parents to send their children to school. In 1881 comes legislation to prevent trawling over clam-beds and bait-beds, and an interdict making it impossible to buy a glass of beer on Sunday in Wales. In 1882 the Board of Trade was authorized to grant licenses to generate and sell electricity, and municipal bodies were enabled to levy rates for electric-lighting: further exactions from ratepayers were authorized for facilitating more accessible baths and wash-houses; and local authorities were empowered to make

by-laws for securing the decent lodging of persons engaged in picking fruit and vegetables. Of such legislation during 1883 may be named the Cheap Trains Act, which, partly by taxing the nation to the extent of £400,000 a year (in the shape of relinquished passenger duty), and partly at the cost of railway-proprietors, still further cheapens travelling for workmen: the Board of Trade, through the Railway Commissioners, being empowered to ensure sufficiently good and frequent accommodation. Again, there is the Act which, under penalty of £10 for disobedience, forbids the payment of wages to workmen at or within public-houses; there is another Factory and Workshops Act, commanding inspection of white lead works (to see that there are provided overalls, respirators, baths, acidulated drinks, &c.) and of bakehouses, regulating times of employment in both, and prescribing in detail some constructions for the last, which are to be kept in a condition satisfactory to the inspectors.

But we are far from forming an adequate conception if we look only at the compulsory legislation which has actually been established of late years. We must look also at that which is advocated, and which threatens to be far more sweeping in range and stringent in character. We have lately had a Cabinet Minister, one of the most advanced Liberals, so-called, who poohpoohs the plans of the late Government for improving industrial dwellings as so much "tinkering"; and contends for effectual coercion to be exercised over owners of small houses, over land-owners, and over ratepayers. Here is another Cabinet Minister who, addressing his constituents, speaks slightingly of the doings of philanthropic societies and religious bodies to help the poor, and says that "the whole of the people of this country ought to look upon this work as being their own work": that is to say, some extensive Government measure is called for. Again, we have a Radical member of Par-

liament who leads a large and powerful body, aiming with annually-increasing promise of success, to enforce sobriety by giving to local majorities powers to prevent freedom of exchange in respect of certain commodities. Regulation of the hours of labor for certain classes, which has been made more and more general by successive extensions of the Factories Acts, is likely now to be made still more general: a measure is to be proposed bringing the employés in all shops under such regulation. There is a rising demand, too, that education shall be made gratis (*i. e.*, tax-supported), for all. The payment of school-fees is beginning to be denounced as a wrong: the State must take the whole burden. Moreover, it is proposed by many that the State, regarded as an undoubtedly competent judge of what constitutes good education for the poor, shall undertake also to prescribe good education for the middle classes—shall stamp the children of these, too, after a State pattern, concerning the goodness of which they have no more doubt than the Chinese had when they fixed theirs. Then there is the "endowment of research," of late energetically urged. Already the Government gives every year the sum of £4,000 for this purpose, to be distributed through the Royal Society; and, in the absence of those who have strong motives for resisting the pressure of the interested, backed by those they easily persuade, it may by-and-by establish that paid "priesthood of science" long ago advocated by Sir David Brewster. Once more, plausible proposals are made that there should be organized a system of compulsory insurance, by which men during their early lives shall be forced to provide for the time when they will be incapacitated.

Nor does enumeration of these further measures of coercive rule, looming on us near at hand or in the distance, complete the account. Nothing more than cursory allusion has yet been made to that accom-

panying compulsion which takes the form of increased taxation, general and local. Partly for defraying the costs of carrying out these ever-multiplying sets of regulations, each of which requires an additional staff of officers, and partly to meet the outlay for new public institutions, such as board-schools, free libraries, public museums, baths and washhouses, recreation grounds, &c., &c., local rates are year after year increased; as the general taxation is increased by grants for education and to the departments of science and art, &c. Every one of these involves further coercion —restricts still more the freedom of the citizen. For the implied address accompanying every additional exaction is—"Hitherto you have been free to spend this portion of your earnings in any way which pleased you; hereafter you shall not be free so to spend it, but we will spend it for the general benefit." Thus, either directly or indirectly, and in most cases both at once, the citizen is at each further stage in the growth of this compulsory legislation, deprived of some liberty which he previously had.

Such, then, are the doings of the party which claims the name of Liberal; and which calls itself Liberal as being the advocate of extended freedom!

I doubt not that many a member of the party has read the preceding section with impatience: wanting, as he does, to point out an immense oversight which he thinks destroys the validity of the argument. "You forget," he wishes to say, "the fundamental difference between the power which, in the past, established those restraints that Liberalism abolished, and the power which, in the present, establishes the restraints you call anti-Liberal. You forget that the one was an irresponsible power, while the other is a responsible power. You forget that if by the recent legislation of Liberals, people are variously regulated, the body which regu-

lates them is of their own creating, and has their warrant for its acts."

My answer is, that I have not forgotten this difference, but am prepared to contend that the difference is in large measure irrelevant to the issue.

In the first place, the real issue is whether the lives of citizens are more interfered with than they were; not the nature of the agency which interferes with them. Take a simpler case. A member of a trades' union has joined others in establishing an organization of a purely representative character. By it he is compelled to strike if a majority so decide; he is forbidden to accept work save under the conditions they dictate; he is prevented from profiting by his superior ability or energy to the extent he might do were it not for their interdict. He cannot disobey without abandoning those pecuniary benefits of the organization for which he has subscribed, and bringing on himself the persecution, and perhaps violence, of his fellows. Is he any the less coerced because the body coercing him is one which he had an equal voice with the rest in forming?

In the second place, if it be objected that the analogy is faulty, since the governing body of a nation, to which, as protector of the national life and interests, all must submit under penalty of social disorganization, has a far higher authority over citizens than the government of any private organization can have over its members; then the reply is that, granting the difference, the answer made continues valid. If men use their liberty in such a way as to surrender their liberty, are they thereafter any the less slaves? If people by a *plébiscite* elect a man despot over them, do they remain free because the despotism was of their own making? Are the coercive edicts issued by him to be regarded as legitimate because they are the ultimate outcome of their own votes? As well might it be ar-

gued that the East African, who breaks a spear in another's presence that he may so become bondsman to him, still retains his liberty because he freely chose his master.

Finally if any, not without marks of irritation as I can imagine, repudiate this reasoning, and say that there is no true parallelism between the relation of people to government where an irresponsible single ruler has been permanently elected, and the relation where a responsible representative body is maintained, and from time to time re-elected; then there comes the ultimate reply—an altogether heterodox reply—by which most will be greatly astonished. This reply is, that these multitudinous restraining acts are not defensible on the ground that they proceed from a popularly-chosen body; for that the authority of a popularly-chosen body is no more to be regarded as an unlimited authority than the authority of a monarch; and that as true Liberalism in the past disputed the assumption of a monarch's unlimited authority, so true Liberalism in the present will dispute the assumption of unlimited parliamentary authority. Of this, however, more anon. Here I merely indicate it as an ultimate answer.

Meanwhile it suffices to point out that until recently, just as of old, true Liberalism was shown by its acts to be moving towards the theory of a limited parliamentary authority. All these abolitions of restraints over religious beliefs and observances, over exchange and transit, over trade-combinations and the travelling of artisans, over the publication of opinions, theological or political, &c., &c., were tacit assertions of the desirableness of limitation. In the same way that the abandonment of sumptuary laws, of laws forbidding this or that kind of amusement, of laws dictating modes of farming, and many others of like meddling nature, which took place in early days, was an implied ad-

mission that the State ought not to interfere in such matters; so those removals of hindrances to individual activities of one or other kind, which the Liberalism of the last generation effected, were practical confessions that in these directions, too, the sphere of governmental action should be narrowed. And this recognition of the propriety of restricting governmental action was a preparation for restricting it in theory. One of the most familiar political truths is that, in the course of social evolution, usage precedes law; and that when usage has been well established it becomes law by receiving authoritative endorsement and defined form. Manifestly, then, Liberalism in the past, by its practice of limitation, was preparing the way for the principle of limitation.

But returning from these more general considerations to the special question, I emphasize the reply that the liberty which a citizen enjoys is to be measured, not by the nature of the governmental machinery he lives under, whether representative or other, but by the relative paucity of the restraints it imposes on him; and that, whether this machinery is or is not one he shared in making, its actions are not of the kind proper to Liberalism if they increase such restraints beyond those which are needful for preventing him from directly or indirectly aggressing on his fellows—needful, that is, for maintaining the liberties of his fellows against his invasions of them: restraints which are, therefore, to be distinguished as negatively coercive, not positively coercive.

Probably, however, the Liberal, and still more the sub-species Radical, who more than any other in these latter days seems under the impression that so long as he has a good end in view he is warranted in exercising over men all the coercion he is able, will continue to protest. Knowing that his aim is popular

benefit of some kind, to be achieved in some way, and believing that the Tory is, contrariwise, prompted by class-interest and the desire to maintain class-power, he will regard it as palpably absurd to group him as one of the same genus, and will scorn the reasoning used to prove that he belongs to it.

Perhaps an analogy will help him to see its validity. If, away in the far East, where personal government is the only form of government known, he heard from the inhabitants an account of a struggle by which they had deposed a cruel and vicious despot, and put in his place one whose acts proved his desire for their welfare—if, after listening to their self-congratulations, he told them that they had not essentially changed the nature of their government, he would greatly astonish them; and probably he would have difficulty in making them understand that the substitution of a benevolent despot for a malevolent despot, still left the government a despotism. Similarly with Toryism as rightly conceived. Standing as it does for coercion by the State *versus* the freedom of the individual, Toryism remains Toryism, whether it extends this coercion for selfish or unselfish reasons. As certainly as the despot is still a despot, whether his motives for arbitrary rule are good or bad; so certainly is the Tory still a Tory, whether he has egoistic or altruistic motives for using State-power to restrict the liberty of the citizen, beyond the degree required for maintaining the liberties of other citizens. The altruistic Tory as well as the egoistic Tory belongs to the genus Tory; though he forms a new species of the genus. And both stand in distinct contrast with the Liberal as defined in the days when Liberals were rightly so called, and when the definition was—"one who advocates greater freedom from restraint, especially in political institutions."

Thus, then, is justified the paradox I set out with. As we have seen, Toryism and Liberalism originally

emerged, the one from militancy and the other from industrialism. The one stood for the *régime* of status and the other for the *régime* of contract—the one for that system of compulsory co-operation which accompanies the legal inequality of classes, and the other for that voluntary co-operation which accompanies their legal equality; and beyond all question the early acts of the two parties were respectively for the maintenance of agencies which effect this compulsory co-operation, and for the weakening or curbing of them. Manifestly the implication is that, in so far as it has been extending the system of compulsion, what is now called Liberalism is a new form of Toryism.

How truly this is so, we shall see still more clearly on looking at the facts the other side upwards, which we will presently do.

Note.—By sundry newspapers which noticed this article when it was originally published, the meaning of the above paragraphs was supposed to be that Liberals and Tories have changed places. This, however, is by no means the implication. A new species of Tory may arise without disappearance of the original species. When saying, for instance, that in our days "Conservatives and Liberals vie with one another in multiplying" interferences, I clearly implied the belief that while Liberals have taken to coercive legislation, Conservatives have not abandoned it. Nevertheless, it is true that the laws made by Liberals are so greatly increasing the compulsions and restraints exercised over citizens, that among Conservatives who suffer from this aggressiveness there is growing up a tendency to resist it. Proof is furnished by the fact that the "Liberty and Property Defence League," largely consisting of Conservatives, has taken for its motto "Individualism *versus* Socialism." So that if

the present drift of things continues, it may by and by really happen that the Tories will be defenders of liberties which the Liberals, in pursuit of what they think popular welfare, trample under foot.

HERBERT SPENCER'S "THE COMING SLAVERY"

WITH COMMENTS BY

HENRY CABOT LODGE

SENATOR LODGE'S COMMENTS

MR. CALHOUN on one occasion urged his fellow-members of the House of Representatives to "raise their minds" to certain truths. It was an exhortation which might well be addressed every year to every Congress and to the constituents who elect Congressmen and Senators as well, for the truths which Mr. Calhoun pointed out were general in their nature. They were ultimate truths as distinct from half truths or proximate truths, upon which alone almost all legislation is predicated. There has never been a time when it was more desirable for legislatures and people alike to look beyond the proximate truths or the half truths upon which we are acting and to consider the ultimate truth to which their actions lead. Mr. Birrell remarked in one of his essays that "a gloomy truth is a better companion through life than a cheerful falsehood," and this is quite as applicable to nations as it is to the individual man. At this time the movement to enlarge in every direction the powers and activities of government,—State, municipal and national,—is very strong and of late years has gone forward with startling rapidity. For those who think and try to think honestly about the future well-being of their country it is well to consider whither this movement is leading us. No one perhaps has pointed out the ultimate truths involved in this expansion of governmental functions better than Herbert Spencer in the essays collectively entitled *The Man v. the State.*

Spencer's philosophy or philosophical system, which involves the great mass of his work, need not concern

us here. However much we may differ as to the value of that system or as to Spencer's mental attitude, there can be, I think, little dispute over the force and clearness with which he has discussed the relations of man to government. William James in his review of Spencer's autobiography says: "His attack on over-administration and criticisms of the inferiority of great centralized systems are worthy to be the text-books of individualists the world over." The words "individualist" and "individualism" of late years have been treated in our current political discussions as if what they signified was little short of criminal. "Individualism" has been cursed as amply as the jackdaw of Rheims in *The Ingoldsby Legends* when he stole the Cardinal's ring. None the less in these times it is a good thing to read the individualist argument, never better put than by Herbert Spencer, although the destruction of individualism since his day has gone to extremes which he probably did not contemplate, even if they were among the possibilities he depicted.

There is no single one of Spencer's essays perhaps which deals more effectively with the results of over-administration than the one entitled *The Coming Slavery.* It is directed against what is now known as State socialism. A single sentence from this essay, which ought to be carefully studied and read in its entirety, will show the proposition toward which it is directed. Speaking of the individual, Spencer says: "If, without option, he has to labor for the society, and receives from the general stock such portion as the society awards him, he becomes a slave to the society. Socialistic arrangements necessitate an enslavement of this kind; and toward such an enslavement many recent measures, and still more the measures advocated, are carrying us." It may be said in reply to this assertion, and probably will be said, that an overwhelming majority of the people of the United States are against

State socialism and that Socialists have never been able in any election to poll one-fifteenth of the vote of the United States. This is quite true and thousands upon thousands of people who do not believe in the establishment of State socialism, and thousands upon thousands of others who are actively opposed to it, support more or less actively, or at least regard with indifference, measures which one by one are carrying us to that precise result. In other words, people are opposed to State socialism as a whole, but accept with complaisance the rapidly multiplying steps which lead directly to it.

As Spencer says in another essay, society politically organized is based either upon compulsory or voluntary co-operation. The long established form of compulsory co-operation was the old military autocratic state of which Germany to-day offers a perfect example. The movement which began with the revolt of the American Colonies and the French Revolution shattered the old organizations of this type and during the first half of the nineteenth century restriction of the powers of government and the development of individualism and voluntary co-operation were dominant ideas. This movement was strongest in the freest countries like England and the United States, and in England it took the practical form of free trade and of a refusal to interfere with voluntary co-operation. In the United States, individualism was perhaps stronger than in any other country. The Democratic party at the outset was devoted to the principle of strict construction of the Constitution, of the least government and the most restricted administration possible. The Federalists, Whigs and Republicans favored a liberal construction of the Constitution and what seemed to them a reasonable exercise of the powers of government as in their belief essential to prosperity. One hundred years later we find the Democratic party at the other

extreme and advocating in every direction the extension of governmental powers, while the Republican party, which has consistently supported a due exercise of these powers, is now in an attitude of resistance on many points to what it believes to be an undue extension.

The change in the relative attitudes of political parties is not, however, important; for the exercise of governmental powers supported by Federalists and Whigs and denounced by Democrats during the early nineteenth century would now be considered little better than rank individualism by the mass of people in both parties. The only point to which it is desirable to call attention as a preliminary to a study of Spencer's essays is the vast growth of governmental activities which has taken place in the United States and more particularly since the twentieth century began. It is not necessary to enumerate the long list of measures which have conferred new powers upon the Government and which have received general support from men of all parties. It is only necessary to call attention to one fact which shows the extension of administrative functions and that is the enormous increase of the office-holding class made necessary by these new measures. In every department of the Government there has been an increase in the number of offices, and in the Treasury Department alone there has been an increase of nine hundred and thirty-eight offices within the last two years. That the same holds true of other executive departments is shown by the fact that the number of Government employés in the classified service, appointed as the result of competitive examinations, has increased from 222,278, in the year 1910, to 292,460, in the year 1914, while the total number of Government employés has increased from 384,088 to 482,721 in the same period. These increases are enough to give us pause, but when we reflect that there is an active movement on foot to have the Government take

over the telegraphs and telephones, the railroads and the steamships of the country, we can see that these hundreds of thousands of offices now existent will be raised, if Government ownership prevails, to several millions. If this comes to pass we shall soon be governed by the office-holders of the classified service, just as Russia has been controlled by her bureaucracy. Apart from the general question of socialism it is well to consider whether we wish to substitute an office-holders' Government for that we now have, because it is certain that a highly organized body of office-holders, even if only a comparatively small minority of the people, will rule the large and incoherent masses of the general public.

There is also another ultimate result which will come if we continue along the path we are now treading, and which is peculiar in our system of government, and that is the destruction of the States or their reduction to a condition of inanition through the absorption of Government functions by the central Government at Washington. This movement is proceeding with great rapidity and it is well to remember that the State Governments embody the principle of local self-government which has always been justly regarded as one of the corner stones of the republic. With issues so important presented to us by the movements of the present day, it is surely worth while to try at least to clear our minds of cant and consider some of the ultimate truths set forth by Herbert Spencer, even if he was an individualist in principle. Our forefathers founded a limited Government. The movement of to-day and the various measures of a socialistic kind extending governmental activities are breaking down those constitutional limitations and are intended to do so. It is well for us to stop and consider whether it is wise to destroy the Government which Washington founded and which Lincoln saved.

THE COMING SLAVERY

HERBERT SPENCER

The kinship of pity to love is shown among other ways in this, that it idealizes its object. Sympathy with one in suffering suppresses, for the time being, remembrance of his transgressions. The feeling which vents itself in "poor fellow!" on seeing one in agony, excludes the thought of "bad fellow," which might at another time arise. Naturally, then, if the wretched are unknown or but vaguely known, all the demerits they may have are ignored; and thus it happens that when the miseries of the poor are dilated upon, they are thought of as the miseries of the deserving poor, instead of being thought of as the miseries of the undeserving poor, which in large measure they should be. Those whose hardships are set forth in pamphlets and proclaimed in sermons and speeches which echo throughout society, are assumed to be all worthy souls, grievously wronged; and none of them are thought of as bearing the penalties of their misdeeds.

On hailing a cab in a London street, it is surprising how frequently the door is officiously opened by one who expects to get something for his trouble. The surprise lessens after counting the many loungers about tavern-doors, or after observing the quickness with which a street-performance, or procession, draws from neighboring slums and stable-yards a group of idlers. Seeing how numerous they are in every small area, it becomes manifest that tens of thousands of such swarm through London. "They have no work," you say. Say rather that they either refuse work or quickly turn themselves out of it. They are simply good-for-nothings, who in one way or other live on the good-

for-somethings—vagrants and sots, criminals and those on the way to crime, youths who are burdens on hard-worked parents, men who appropriate the wages of their wives, fellows who share the gains of prostitutes; and then, less visible and less numerous, there is a corresponding class of women.

Is it natural that happiness should be the lot of such? or is it natural that they should bring unhappiness on themselves and those connected with them? Is it not manifest that there must exist in our midst an immense amount of misery which is a normal result of misconduct, and ought not to be dissociated from it? There is a notion, always more or less prevalent and just now vociferously expressed, that all social suffering is removable, and that it is the duty of somebody or other to remove it. Both these beliefs are false. To separate pain from ill-doing is to fight against the constitution of things, and will be followed by far more pain. Saving men from the natural penalties of dissolute living, eventually necessitates the infliction of artificial penalties in solitary cells, on tread-wheels, and by the lash. I suppose a dictum on which the current creed and the creed of science are at one, may be considered to have as high an authority as can be found. Well, the command "if any would not work neither should he eat," is simply a Christian enunciation of that universal law of Nature under which life has reached its present height—the law that a creature not energetic enough to maintain itself must die: the sole difference being that the law which in the one case is to be artificially enforced, is, in the other case, a natural necessity. And yet this particular tenet of their religion which science so manifestly justifies, is the one which Christians seem least inclined to accept. The current assumption is that there should be no suffering, and that society is to blame for that which exists.

"But surely we are not without responsibilities, even when the suffering is that of the unworthy?"

If the meaning of the word "we" be so expanded as to include with ourselves our ancestors, and especially our ancestral legislators, I agree. I admit that those who made, and modified, and administered, the old Poor Law, were responsible for producing an appalling amount of demoralization, which it will take more than one generation to remove. I admit, too, the partial responsibility of recent and present law-makers for regulations which have brought into being a permanent body of tramps, who ramble from union to union; and also their responsibility for maintaining a constant supply of felons by sending back convicts into society under such conditions that they are almost compelled again to commit crimes. Moreover, I admit that the philanthropic are not without their share of responsibility; since, that they may aid the offspring of the unworthy, they disadvantage the offspring of the worthy through burdening their parents by increased local rates. Nay, I even admit that these swarms of good-for-nothings, fostered and multiplied by public and private agencies, have, by sundry mischievous meddlings, been made to suffer more than they would otherwise have suffered. Are these the responsibilities meant? I suspect not.

But now, leaving the question of responsibilities, however conceived, and considering only the evil itself, what shall we say of its treatment? Let me begin with a fact.

A late uncle of mine, the Rev. Thomas Spencer, for some twenty years incumbent of Hinton Charterhouse, near Bath, no sooner entered on his parish duties than he proved himself anxious for the welfare of the poor, by establishing a school, a library, a clothing club, and land-allotments, besides building some model cottages. Moreover, up to 1833 he was a pauper's

friend—always for the pauper against the overseer.

There presently came, however, the debates on the Poor Law, which impressed him with the evils of the system then in force. Though an ardent philanthropist he was not a timid sentimentalist. The result was that, immediately the New Poor Law was passed, he proceeded to carry out its provisions in his parish. Almost universal opposition was encountered by him: not the poor only being his opponents, but even the farmers on whom came the burden of heavy poor-rates. For, strange to say, their interests had become apparently identified with the maintenance of this system which taxed them so largely. The explanation is that there had grown up the practice of paying out of the rates a part of the wages of each farm-servant—"make-wages" as the sum was called. And though the farmers contributed most of the fund from which "make-wages" were paid, yet, since all other ratepayers contributed, the farmers seemed to gain by the arrangement. My uncle, however, not easily deterred, faced all this opposition and enforced the law. The result was that in two years the rates were reduced from £700 a year to £200 a year; while the condition of the parish was greatly improved. "Those who had hitherto loitered at the corners of the streets, or at the doors of the beer-shops, had something else to do, and one after another they obtained employment"; so that out of a population of 800, only 15 had to be sent as incapable paupers to the Bath Union (when that was formed), in place of the 100 who received out-door relief a short time before. If it be said that the £25 telescope which, a few years after, his parishioners presented to my uncle, marked the gratitude of the ratepayers only; then my reply is the fact that when, some years later still, having killed himself by overwork in pursuit of popular welfare, he was taken to Hinton to be buried,

the procession which followed him to the grave included not the well-to-do only but the poor.

Several motives have prompted this brief narrative. One is the wish to prove that sympathy with the people and self-sacrificing efforts on their behalf, do not necessarily imply approval of gratuitous aids. Another is the desire to show that benefit may result, not from multiplication of artificial appliances to mitigate distress, but, contrariwise, from diminution of them. And a further purpose I have in view is that of preparing the way for an analogy.

Under another form and in a different sphere, we are now yearly extending a system which is identical in nature with the system of "make-wages" under the old Poor Law. Little as politicians recognize the fact, it is nevertheless demonstrable that these various public appliances for working-class comfort, which they are supplying at the cost of ratepayers, are intrinsically of the same nature as those which, in past times, treated the farmer's man as half-laborer and half-pauper. In either case the worker receives in return for what he does, money wherewith to buy certain of the things he wants; while, to procure the rest of them for him, money is furnished out of a common fund raised by taxes. What matters it whether the things supplied by ratepayers for nothing, instead of by the employer in payment, are of this kind or that kind? the principle is the same. For sums received let us substitute the commodities and benefits purchased; and then see how the matter stands. In old Poor-Law times, the farmer gave for work done the equivalent, say of house-rent, bread, clothes, and fire; while the ratepayers practically supplied the man and his family with their shoes, tea, sugar, candles, a little bacon, &c. The division is, of course, arbitrary; but unquestionably the farmer and the ratepayers furnished these things between them. At the present time the artisan receives

from his employer in wages, the equivalent of the consumable commodities he wants; while from the public comes satisfaction for others of his needs and desires. At the cost of ratepayers he has in some cases, and will presently have in more, a house at less than its commercial value; for of course when, as in Liverpool, a municipality spends nearly £200,000 in pulling down and reconstructing low-class dwellings, and is about to spend as much again, the implication is that in some way the ratepayers supply the poor with more accommodation than the rents they pay would otherwise have brought. The artisan further receives from them, in schooling for his children, much more than he pays for; and there is every probability that he will presently receive it from them gratis. The ratepayers also satisfy what desire he may have for books and newspapers, and comfortable places to read them in. In some cases too, as in Manchester, gymnasia for his children of both sexes, as well as recreation grounds, are provided. That is to say, he obtains from a fund raised by local taxes, certain benefits beyond those which the sum received for his labor enables him to purchase. The sole difference, then, between this system and the old system of "make-wages," is between the kinds of satisfactions obtained; and this difference does not in the least affect the nature of the arrangement.

Moreover, the two are pervaded by substantially the same illusion. In the one case, as in the other, what looks like a gratis benefit is not a gratis benefit. The amount which, under the old Poor Law, the half-pauperized laborer received from the parish to eke out his weekly income, was not really, as it appeared, a bonus; for it was accompanied by a substantially-equivalent decrease of his wages, as was quickly proved when the system was abolished and the wages rose. Just so is it with these seeming boons received by work-

ing people in towns. I do not refer only to the fact that they unawares pay in part through the raised rents of their dwellings (when they are not actual ratepayers); but I refer to the fact that the wages received by them are, like the wages of the farm-laborer, diminished by these public burdens falling on employers. Read the accounts coming of late from Lancashire concerning the cotton-strike, containing proofs, given by artisans themselves, that the margin of profit is so narrow that the less skilful manufacturers, as well as those with deficient capital, fail, and that the companies of co-operators who compete with them can rarely hold their own; and then consider what is the implication respecting wages. Among the costs of production have to be reckoned taxes, general and local. If, as in our large towns, the local rates now amount to one-third of the rental or more—if the employer has to pay this, not on his private dwelling only, but on his business-premises, factories, warehouses, or the like; it results that the interest on his capital must be diminished by that amount, or the amount must be taken from the wages-fund, or partly one and partly the other. And if competition among capitalists in the same business, and in other businesses, has the effect of so keeping down interest that while some gain others lose, and not a few are ruined—if capital, not getting adequate interest, flows elsewhere and leaves labor unemployed; then it is manifest that the choice for the artisan under such conditions, lies between diminished amount of work and diminished rate of payment for it. Moreover, for kindred reasons these local burdens raise the costs of the things he consumes. The charges made by distributors are, on the average, determined by the current rates of interest on capital used in distributing business; and the extra costs of carrying on such businesses have to be paid for by extra prices. So that as in the past the rural

worker lost in one way what he gained in another, so in the present does the urban worker: there being, too, in both cases, the loss entailed on him by the cost of administration and the waste accompanying it.

"But what has all this to do with 'the coming slavery'?" will perhaps be asked. Nothing directly, but a good deal indirectly, as we shall see after yet another preliminary section.

It is said that when railways were first opened in Spain, peasants standing on the tracks were not unfrequently run over; and that the blame fell on the engine-drivers for not stopping: rural experiences having yielded no conception of the momentum of a large mass moving at a high velocity.

The incident is recalled to me on contemplating the ideas of the so-called "practical" politician, into whose mind there enters no thought of such a thing as political momentum, still less of a political momentum which, instead of diminishing or remaining constant, increases. The theory on which he daily proceeds is that the change caused by his measure will stop where he intends it to stop. He contemplates intently the things his act will achieve, but thinks little of the remoter issues of the movement his act sets up, and still less its collateral issues. When, in war-times, "food for powder" was to be provided by encouraging population—when Mr. Pitt said, "Let us make relief in cases where there are a number of children a matter of right and honor, instead of a ground for opprobrium and contempt"; it was not expected that the poor-rates would be quadrupled in fifty years, that women with many bastards would be preferred as wives to modest women, because of their incomes from the parish, and that hosts of ratepayers would be pulled down into the ranks of pauperism. Legislators who in 1833 voted

£30,000 a year to aid in building schoolhouses, never supposed that the step they then took would lead to forced contributions, local and general, now amounting to £6,000,000; they did not intend to establish the principle that A should be made responsible for educating B's offspring; they did not dream of a compulsion which would deprive poor widows of the help of their elder children; and still less did they dream that their successors, by requiring impoverished parents to apply to Boards of Guardians to pay the fees which School Boards would not remit, would initiate a habit of applying to Boards of Guardians and so cause pauperization. Neither did those who in 1834 passed an Act regulating the labor of women and children in certain factories, imagine that the system they were beginning would end in the restriction and inspection of labor in all kinds of producing establishments where more than fifty people are employed; nor did they conceive that the inspection provided would grow to the extent of requiring that before a "young person" is employed in a factory, authority must be given by a certifying surgeon, who, by personal examination (to which no limit is placed), has satisfied himself that there is no incapacitating disease or bodily infirmity: his verdict determining whether the "young person" shall earn wages or not.[1] Even less, as I say, does the politician who plumes himself on the practicalness of his aims, conceive the indirect results which will follow the direct results of his measures. Thus, to take a case connected with one named above, it was not intended through the system of "payment by results," to do anything more than give teachers an efficient stimulus: it was not supposed that in numerous cases their health would give way under the stimulus; it was not expected that they would be led to adopt a cramming system and to put undue pressure on dull and

[1] Factories and Workshops Act, 41 and 42 Vic., cap. 16.

weak children, often to their great injury; it was not foreseen that in many cases a bodily enfeeblement would be caused which no amount of grammar and geography can compensate for. The licensing of public-houses was simply for maintaining public order: those who devised it never imagined that there would result an organized interest powerfully influencing elections in an unwholesome way. Nor did it occur to the "practical" politicians who provided a compulsory load-line for merchant vessels, that the pressure of shipowners' interests would habitually cause the putting of the load-line at the very highest limit, and that from precedent to precedent, tending ever in the same direction, the load-line would gradually rise in the better class of ships; as from good authority I learn that it has already done. Legislators who, some forty years ago, by Act of Parliament compelled railway-companies to supply cheap locomotion, would have ridiculed the belief, had it been expressed, that eventually their Act would punish the companies which improved the supply; and yet this was the result to companies which began to carry third-class passengers by fast trains; since a penalty to the amount of the passenger-duty was inflicted on them for every third-class passenger so carried. To which instance concerning railways, add a far more striking one disclosed by comparing the railway policies of England and France. The lawmakers who provided for the ultimate lapsing of French railways to the State, never conceived the possibility that inferior travelling facilities would result—did not foresee that reluctance to depreciate the value of property eventually coming to the State, would negative the authorization of competing lines, and that in the absence of competing lines locomotion would be relatively costly, slow, and infrequent; for, as Sir Thomas Farrer has lately shown, the traveller in England has great advantages over the French traveller in the

economy, swiftness, and frequency with which his journeys can be made.

But the "practical" politician who, in spite of such experiences repeated generation after generation, goes on thinking only of proximate results, naturally never thinks of results still more remote, still more general, and still more important than those just exemplified. To repeat the metaphor used above—he never asks whether the political momentum set up by his measure, in some cases decreasing but in other cases greatly increasing, will or will not have the same general direction with other like momenta; and whether it may not join them in presently producing an aggregate energy working changes never thought of. Dwelling only on the effects of his particular stream of legislation, and not observing how such other streams already existing, and still other streams which will follow his initiative, pursue the same average course, it never occurs to him that they may presently unite into a voluminous flood utterly changing the face of things. Or to leave figures for a more literal statement, he is unconscious of the truth that he is helping to form a certain type of social organization, and that kindred measures, effecting kindred changes of organization, tend with ever-increasing force to make that type general; until, passing a certain point, the proclivity towards it becomes irresistible. Just as each society aims when possible to produce in other societies a structure akin to its own—just as among the Greeks, the Spartans and the Athenians struggled to spread their respective political institutions, or as, at the time of the French Revolution, the European absolute monarchies aimed to re-establish absolute monarchy in France while the Republic encouraged the formation of other republics; so within every society, each species of structure tends to propagate itself. Just as the system of voluntary co-operation by companies, associa-

tions, unions, to achieve business ends and other ends, spreads throughout a community; so does the antagonistic system of compulsory co-operation under State-agencies spread; and the larger becomes its extension the more power of spreading it gets. The question of questions for the politician should ever be—"What type of social structure am I tending to produce?" But this is a question he never entertains.

Here we will entertain it for him. Let us now observe the general course of recent changes, with the accompanying current of ideas, and see whither they are carrying us.

The blank form of an inquiry daily made is—"We have already done this; why should we not do that?" And the regard for precedent suggested by it, is ever pushing on regulative legislation. Having had brought within their sphere of operation more and more numerous businesses, the Acts restricting hours of employment and dictating the treatment of workers are now to be made applicable to shops. From inspecting lodging-houses to limit the numbers of occupants and enforce sanitary conditions, we have passed to inspecting all houses below a certain rent in which there are members of more than one family, and are now passing to a kindred inspection of all small houses. The buying and working of telegraphs by the State is made a reason for urging that the State should buy and work the railways. Supplying children with food for their minds by public agency is being followed in some cases by supplying food for their bodies; and after the practice has been made gradually more general, we may anticipate that the supply, now proposed to be made gratis in the one case, will eventually be proposed to be made gratis in the other: the argument that good bodies as well as good minds are needful to make good citizens, being logically urged as a reason for the ex-

tension.[1] And then, avowedly proceeding on the precedents furnished by the church, the school, and the reading-room, all publicly provided, it is contended that "pleasure, in the sense it is now generally admitted, needs legislating for and organizing at least as much as work."

Not precedent only prompts this spread, but also the necessity which arises for supplementing ineffective measures, and for dealing with the artificial evils continually caused. Failure does not destroy faith in the agencies employed, but merely suggests more stringent use of such agencies or wider ramifications of them. Laws to check intemperance, beginning in early times and coming down to our own times, not having done what was expected, there come demands for more thorough-going laws, locally preventing the sale altogether; and here, as in America, these will doubtless be followed by demands that prevention shall be made universal. All the many appliances for "stamping out" epidemic diseases not having succeeded in preventing outbreaks of small-pox, fevers, and the like, a further remedy is applied for in the shape of police-power to search houses for diseased persons, and authority for medical officers to examine any one they think fit, to see whether he or she is suffering from an infectious or contagious malady. Habits of improvidence having for generations been cultivated by the Poor-Law, and the improvident enabled to multiply, the evils produced by compulsory charity are now proposed to be met by compulsory insurance.

The extension of this policy, causing extension of

[1] Verification comes more promptly than I expected. This article has been standing in type since January 30, and in the interval, namely on March 13 [the article was published on April 1], the London School Board resolved to apply for authority to use local charitable funds for supplying gratis meals and clothing to indigent children. Presently the definition of "indigent" will be widened; more children will be included, and more funds asked for.

corresponding ideas, fosters everywhere the tacit assumption that Government should step in whenever anything is not going right. "Surely you would not have this misery continue!" exclaims some one, if you hint a demurrer to much that is now being said and done. Observe what is implied by this exclamation. It takes for granted, first, that all suffering ought to be prevented, which is not true: much of the suffering is curative and prevention of it is prevention of a remedy. In the second place, it takes for granted that every evil can be removed: the truth being that, with the existing defects of human nature, many evils can only be thrust out of one place or form into another place or form—often being increased by the change. The exclamation also implies the unhesitating belief, here especially concerning us, that evils of all kinds should be dealt with by the State. There does not occur the inquiry whether there are at work other agencies capable of dealing with evils, and whether the evils in question may not be among those which are best dealt with by these other agencies. And obviously, the more numerous governmental interventions become, the more confirmed does this habit of thought grow, and the more loud and perpetual the demands for intervention.

Every extension of the regulative policy involves an addition to the regulative agents—a further growth of officialism and an increasing power of the organization formed of officials. Take a pair of scales with many shot in the one and a few in the other. Lift shot after shot out of the loaded scale and put it into the unloaded scale. Presently you will produce a balance; and if you go on, the position of the scales will be reversed. Suppose the beam to be unequally divided, and let the lightly loaded scale be at the end of a very long arm; then the transfer of each shot, producing a much greater effect, will far sooner bring

about a change of position. I use the figure to illustrate what results from transferring one individual after another from the regulated mass of the community to the regulating structures. The transfer weakens the one and strengthens the other in a far greater degree than is implied by the relative change of numbers. A comparatively small body of officials, coherent, having common interests, and acting under central authority, has an immense advantage over an incoherent public which has no settled policy, and can be brought to act unitedly only under strong provocation. Hence an organization of officials, once passing a certain stage of growth, becomes less and less resistible; as we see in the bureaucracies of the Continent.

Not only does the power of resistance of the regulated part decrease in a geometrical ratio as the regulating part increases, but the private interests of many in the regulated part itself, make the change of ratio still more rapid. In every circle conversations show that now, when the passing of competitive examinations renders them eligible for the public service, youths are being educated in such ways that they may pass them and get employment under Government. One consequence is that men who might otherwise reprobate further growth of officialism, are led to look on it with tolerance, if not favorably, as offering possible careers for those dependent on them and those related to them. Any one who remembers the numbers of upper-class and middle-class families anxious to place their children, will see that no small encouragement to the spread of legislative control is now coming from those who, but for the personal interests thus arising, would be hostile to it.

This pressing desire for careers is enforced by the preference for careers which are thought respectable. "Even should his salary be small, his occupation will

be that of a gentleman," thinks the father, who wants to get a Government-clerkship for his son. And this relative dignity of State-servants as compared with those occupied in business increases as the administrative organization becomes a larger and more powerful element in society, and tends more and more to fix the standard of honor. The prevalent ambition with a young Frenchman is to get some small official post in his locality, to rise thence to a place in the local centre of government, and finally to reach some head-office in Paris. And in Russia, where that universality of State-regulation which characterizes the militant type of society has been carried furthest, we see this ambition pushed to its extreme. Says Mr. Wallace, quoting a passage from a play:—"All men, even shop-keepers and cobblers, aim at becoming officers, and the man who has passed his whole life without official rank seems to be not a human being."

These various influences working from above downwards, meet with an increasing response of expectations and solicitations proceeding from below upwards. The hard-worked and over-burdened who form the great majority, and still more the incapables perpetually helped who are ever led to look for more help, are ready supporters of schemes which promise them this or the other benefit by State-agency, and ready believers of those who tell them that such benefits can be given, and ought to be given. They listen with eager faith to all builders of political air-castles, from Oxford graduates down to Irish irreconcilables; and every additional tax-supported appliance for their welfare raises hopes of further ones. Indeed the more numerous public instrumentalities become, the more is there generated in citizens the notion that everything is to be done for them, and nothing by them. Each generation is made less familiar with the attainment of desired ends by individual actions or private com-

binations, and more familiar with the attainment of them by governmental agencies; until, eventually, governmental agencies come to be thought of as the only available agencies. This result was well shown in the recent Trades-Unions Congress at Paris. The English delegates, reporting to their constituents, said that between themselves and their foreign colleagues "the point of difference was the extent to which the State should be asked to protect labor"; reference being thus made to the fact, conspicuous in the reports of the proceedings, that the French delegates always invoked governmental power as the only means of satisfying their wishes.

The diffusion of education has worked, and will work still more, in the same direction. "We must educate our masters," is the well-known saying of a Liberal who opposed the last extension of the franchise. Yes, if the education were worthy to be so called, and were relevant to the political enlightenment needed, much might be hoped from it. But knowing rules of syntax, being able to add up correctly, having geographical information, and a memory stocked with the dates of kings' accessions and generals' victories, no more implies fitness to form political conclusions than acquirement of skill in drawing implies expertness in telegraphing, or than ability to play cricket implies proficiency on the violin. "Surely," rejoins some one, "facility in reading opens the way to political knowledge." Doubtless; but will the way be followed? Table-talk proves that nine out of ten people read what amuses them rather than what instructs them; and proves, also, that the last thing they read is something which tells them disagreeable truths or dispels groundless hopes. That popular education results in an extensive reading of publications which foster pleasant illusions rather than of those which insist on hard realities, is beyond question. Says "A Me-

chanic," writing in the *Pall Mall Gazette* of December 3, 1883:—

"Improved education instils the desire for culture—culture instils the desire for many things as yet quite beyond working men's reach . . . in the furious competition to which the present age is given up they are utterly impossible to the poorer classes; hence they are discontented with things as they are, and the more educated the more discontented. Hence, too, Mr. Ruskin and Mr. Morris are regarded as true prophets by many of us."

And that the connection of cause and effect here alleged is a real one, we may see clearly enough in the present state of Germany.

Being possessed of electoral power, as are now the mass of those who are thus led to nurture sanguine anticipations of benefits to be obtained by social reorganization, it results that whoever seeks their votes must at least refrain from exposing their mistaken beliefs; even if he does not yield to the temptation to express agreement with them. Every candidate for Parliament is prompted to propose or support some new piece of *ad captandum* legislation. Nay, even the chiefs of parties—these anxious to retain office and those to wrest it from them—severally aim to get adherents by outbidding one another. Each seeks popularity by promising more than his opponent has promised, as we have lately seen. And then, as divisions in Parliament show us, the traditional loyalty to leaders overrides questions concerning the intrinsic propriety of proposed measures. Representatives are unconscientious enough to vote for Bills which they believe to be wrong in principle, because party-needs and regard for the next election demand it. And thus a vicious policy is strengthened even by those who see its viciousness.

Meanwhile there goes on out-of-doors an active propaganda to which all these influences are ancillary. Communistic theories, partially indorsed by one Act of Parliament after another, and tacitly if not avowedly favored by numerous public men seeking supporters, are being advocated more and more vociferously by popular leaders, and urged on by organized societies. There is the movement for land-nationalization which, aiming at a system of land-tenure equitable in the abstract, is, as all the world knows, pressed by Mr. George and his friends with avowed disregard for the just claims of existing owners, and as the basis of a scheme going more than half-way to State-socialism. And then there is the thorough-going Democratic Federation of Mr. Hyndman and his adherents. We are told by them that "the handful of marauders who now hold possession [of the land] have and can have no right save brute force against the tens of millions whom they wrong." They exclaim against "the shareholders who have been allowed to lay hands upon (!) our great railway communications." They condemn "above all, the active capitalist class, the loan-mongers, the farmers, the mine exploiters, the contractors, the middlemen, the factory-lords—these, the modern slave drivers" who exact "more and yet more surplus value out of the wage-slaves whom they employ." And they think it "high time" that trade should be "removed from the control of individual greed." [1]

It remains to point out that the tendencies thus variously displayed, are being strengthened by press advocacy, daily more pronounced. Journalists, always chary of saying that which is distasteful to their readers, are some of them going with the stream and adding to its force. Legislative meddlings which they would once have condemned they now pass in silence, if they do not advocate them; and they speak of *laissez-faire*

[1] *Socialism Made Plain.* Reeves, 185, Fleet Street.

as an exploded doctrine. "People are no longer frightened at the thought of socialism," is the statement which meets us one day. On another day, a town which does not adopt the Free Libraries Act is sneered at as being alarmed by a measure so moderately communistic. And then, along with editorial assertions that this economic evolution is coming and must be accepted, there is prominence given to the contributions of its advocates. Meanwhile those who regard the recent course of legislation as disastrous, and see that its future course is likely to be still more disastrous, are being reduced to silence by the belief that it is useless to reason with people in a state of political intoxication.

See, then, the many concurrent causes which threaten continually to accelerate the transformation now going on. There is that spread of regulation caused by following precedents, which become the more authoritative the further the policy is carried. There is that increasing need for administrative compulsions and restraints, which results from the unforeseen evils and shortcomings of preceding compulsions and restraints. Moreover, every additional State-interference strengthens the tacit assumption that it is the duty of the State to deal with all evils and secure all benefits. Increasing power of a growing administrative organization is accompanied by decreasing power of the rest of the society to resist its further growth and control. The multiplication of careers opened by a developing bureaucracy, tempts members of the classes regulated by it to favor its extension, as adding to the chances of safe and respectable places for their relatives. The people at large, led to look on benefits received through public agencies as gratis benefits, have their hopes continually excited by the prospects of more. A spreading education, furthering the diffusion of pleasing errors rather than of stern truths, renders such hopes

both stronger and more general. Worse still, such hopes are ministered to by candidates for public choice, to augment their chances of success; and leading statesmen, in pursuit of party ends, bid for popular favor by countenancing them. Getting repeated justifications from new laws harmonizing with their doctrines, political enthusiasts and unwise philanthropists push their agitations with growing confidence and success. Journalism, ever responsive to popular opinion, daily strengthens it by giving it voice; while counter-opinion, more and more discouraged, finds little utterance.

Thus influences of various kinds conspire to increase corporate action and decrease individual action. And the change is being on all sides aided by schemers, each of whom thinks only of his pet plan and not at all of the general reorganization which his plan, joined with others such, are working out. It is said that the French Revolution devoured its own children. Here, an analogous catastrophe seems not unlikely. The numerous socialistic changes made by Act of Parliament, joined with the numerous others presently to be made, will by-and-by be all merged in State-socialism—swallowed in the vast wave which they have little by little raised.

"But why is this change described as 'the coming slavery'?" is a question which many will still ask. The reply is simple. All socialism involves slavery.

What is essential to the idea of a slave? We primarily think of him as one who is owned by another. To be more than nominal, however, the ownership must be shown by control of the slave's actions—a control which is habitually for the benefit of the controller. That which fundamentally distinguishes the slave is that he labors under coercion to satisfy another's desires. The relation admits of sundry gradations. Remembering that originally the slave is a prisoner whose life is at the mercy of his captor, it suffices here to note

that there is a harsh form of slavery in which, treated as an animal, he has to expend his entire effort for his owner's advantage. Under a system less harsh, though occupied chiefly in working for his owner, he is allowed a short time in which to work for himself, and some ground on which to grow extra food. A further amelioration gives him power to sell the produce of his plot and keep the proceeds. Then we come to the still more moderated form which commonly arises where, having been a free man working on his own land, conquest turns him into what we distinguish as a serf; and he has to give to his owner each year a fixed amount of labor or produce, or both: retaining the rest himself. Finally, in some cases, as in Russia before serfdom was abolished, he is allowed to leave his owner's estate and work or trade for himself elsewhere, under the condition that he shall pay an annual sum. What is it which, in these cases, leads us to qualify our conception of the slavery as more or less severe? Evidently the greater or smaller extent to which effort is compulsorily expended for the benefit of another instead of for self-benefit. If all the slave's labor is for his owner the slavery is heavy, and if but little it is light. Take now a further step. Suppose an owner dies, and his estate with its slaves comes into the hands of trustees; or suppose the estate and everything on it to be bought by a company; is the condition of the slave any the better if the amount of his compulsory labor remains the same? Suppose that for a company we substitute the community; does it make any difference to the slave if the time he has to work for others is as great, and the time left for himself is as small, as before? The essential question is—How much is he compelled to labor for other benefit than his own, and how much can he labor for his own benefit? The degree of his slavery varies according to the ratio between that which he is forced to yield up and that

which he is allowed to retain; and it matters not whether his master is a single person or a society. If, without option, he has to labor for the society, and receives from the general stock such portion as the society awards him, he becomes a slave to the society. Socialistic arrangements necessitate an enslavement of this kind; and towards such an enslavement many recent measures, and still more the measures advocated, are carrying us. Let us observe, first, their proximate effects, and then their ultimate effects.

The policy initiated by the Industrial Dwellings Acts admits of development, and will develop. Where municipal bodies turn house-builders, they inevitably lower the values of houses otherwise built, and check the supply of more. Every dictation respecting modes of building and conveniences to be provided, diminishes the builder's profit, and prompts him to use his capital where the profit is not thus diminished. So, too, the owner, already finding that small houses entail much labor and many losses—already subject to troubles of inspection and interference, and to consequent costs, and having his property daily rendered a more undesirable investment, is prompted to sell; and as buyers are for like reasons deterred, he has to sell at a loss. And now these still-multiplying regulations, ending, it may be, as Lord Grey proposes, in one requiring the owner to maintain the salubrity of his houses by evicting dirty tenants, and thus adding to his other responsibilities that of inspector of nuisances, must further prompt sales and further deter purchasers: so necessitating greater depreciation. What must happen? The multiplication of houses, and especially small houses, being increasingly checked, there must come an increasing demand upon the local authority to make up for the deficient supply. More and more the municipal or kindred body will have to build houses, or to purchase houses rendered unsaleable to private persons in

the way shown—houses which, greatly lowered in value as they must become, it will, in many cases, pay to buy rather than to build new ones. Nay, this process must work in a double way; since every entailed increase of local taxation still further depreciates property.[1] And then when in towns this process has gone so far as to make the local authority the chief owner of houses, there will be a good precedent for publicly providing houses for the rural population, as proposed in the Radical programme, and as urged by the Democratic Federation; which insists on "the compulsory construction of healthy artisans' and agricultural laborers' dwellings in proportion to the population." Manifestly, the tendency of that which has been done, is being done, and is presently to be done, is to approach the socialistic ideal in which the community is sole house-proprietor.

Such, too, must be the effect of the daily-growing policy on the tenure and utilization of the land. More numerous public benefits, to be achieved by more numerous public agencies, at the cost of augmented public burdens, must increasingly deduct from the returns on land; until, as the depreciation in value becomes greater and greater, the resistance to change of tenure becomes less and less. Already, as every one knows, there is in many places difficulty in obtaining tenants,

[1] If any one thinks such fears are groundless, let him contemplate the fact that from 1867-8 to 1880-1, our annual local expenditure for the United Kingdom has grown from £36,132,834 to £63,276,283; and that during the same 13 years the municipal expenditure in England and Wales alone has grown from 13 millions to 30 millions a year! How the increase of public burdens will join with other causes in bringing about public ownership is shown by a statement made by Mr. W. Rathbone, M.P., to which my attention has been drawn since the above paragraph was in type. He says, "within my own experience, local taxation in New York has risen from 12*s.* 6*d.* per cent. to £2 12*s.* 6*d.* per cent. on the capital of its citizens—a charge which would more than absorb the whole income of an average English landlord."—*Nineteenth Century,* February, 1883.

even at greatly reduced rents; and land of inferior fertility in some cases lies idle, or when farmed by the owner is often farmed at a loss. Clearly the profit on capital invested in land is not such that taxes, local and general, can be greatly raised to support extended public administrations, without an absorption of it which will prompt owners to sell, and make the best of what reduced price they can get by emigrating and buying land not subject to heavy burdens; as, indeed, some are now doing. This process, carried far, must have the result of throwing inferior land out of cultivation; after which there will be raised more generally the demand made by Mr. Arch, who, addressing the Radical Association of Brighton lately, and, contending that existing landlords do not make their land adequately productive for the public benefit, said "he should like the present Government to pass a Compulsory Cultivation Bill"; an applauded proposal which he justified by instancing compulsory vaccination (thus illustrating the influence of precedent). And this demand will be pressed, not only by the need for making the land productive, but also by the need for employing the rural population. After the Government has extended the practice of hiring the unemployed to work on deserted lands, or lands acquired at nominal prices, there will be reached a stage whence there is but a small further step to that arrangement which, in the programme of the Democratic Federation, is to follow nationalization of the land—the "organization of agricultural and industrial armies under State control on co-operative principles."

To one who doubts whether such a revolution may be so reached, facts may be cited showing its likelihood. In Gaul, during the decline of the Roman Empire, "so numerous were the receivers in comparison with the payers, and so enormous the weight of taxation, that the laborer broke down, the plains became

deserts, and woods grew where the plough had been." [1] In like manner, when the French Revolution was approaching, the public burdens had become such, that many farms remained uncultivated and many were deserted: one-quarter of the soil was absolutely lying waste; and in some provinces one-half was in heath.[2] Nor have we been without incidents of a kindred nature at home. Besides the facts that under the old Poor Law the rates had in some parishes risen to half the rental, and that in various places farms were lying idle, there is the fact that in one case the rates had absorbed the whole proceeds of the soil.

At Cholesbury, in Buckinghamshire, in 1832, the poor rate "suddenly ceased in consequence of the impossibility to continue its collection, the landlords have given up their rents, the farmers their tenancies, and the clergyman his glebe and his tithes. The clergyman, Mr. Jeston, states that in October, 1832, the parish officers threw up their books, and the poor assembled in a body before his door while he was in bed, asking for advice and food. Partly from his own small means, partly from the charity of neighbors, and partly by rates in aid, imposed on the neighboring parishes, they were for some time supported." [3]

And the Commissioners add that "the benevolent rector recommends that the whole of the land should be divided among the able-bodied paupers": hoping that after help afforded for two years they might be able to maintain themselves. These facts, giving color to the prophecy made in Parliament that continuance of

[1] Lactant. *De M. Persecut.*, cc. 7, 23.

[2] Taine, *L'Ancien Régime*, pp. 337-8 (in the English Translation).

[3] *Report of Commissioners for Inquiry into the Administration and Practical Operation of the Poor Laws*, p. 37. February 20, 1874.

the old Poor Law for another thirty years would throw the land out of cultivation, clearly show that increase of public burdens may end in forced cultivation under public control.

Then, again, comes State-ownership of railways. Already this exists to a large extent on the Continent. Already we have had here a few years ago loud advocacy of it. And now the cry, which was raised by sundry politicians and publicists, is taken up afresh by the Democratic Federation; which proposes "State-appropriation of railways, with or without compensation." Evidently pressure from above joined by pressure from below, is likely to effect this change dictated by the policy everywhere spreading; and with it must come many attendant changes. For railway-proprietors, at first owners and workers of railways only, have become masters of numerous businesses directly or indirectly connected with railways; and these will have to be purchased by Government when the railways are purchased. Already exclusive letter-carrier, exclusive transmitter of telegrams, and on the way to become exclusive carrier of parcels, the State will not only be exclusive carrier of passengers, goods, and minerals, but will add to its present various trades many other trades. Even now, besides erecting its naval and military establishments and building harbors, docks, breakwaters, &c., it does the work of ship-builder, cannon-founder, small-arms maker, manufacturer of ammunition, army-clothier and boot-maker; and when the railways have been appropriated "with or without compensation," as the Democratic Federationists say, it will have to become locomotive-engine-builder, carriage-maker, tarpaulin and grease manufacturer, passenger-vessel owner, coal-miner, stone-quarrier, omnibus proprietor, &c. Meanwhile its local lieutenants, the municipal governments, already in many places suppliers of water, gas-makers, owners and workers of tramways,

proprietors of baths, will doubtless have undertaken various other businesses. And when the State, directly or by proxy, has thus come into possession of, or has established, numerous concerns for wholesale production and for wholesale distribution, there will be good precedents for extending its function to retail distribution: following such an example, say, as is offered by the French Government, which has long been a retail tobacconist.

Evidently then, the changes made, the changes in progress, and the changes urged, will carry us not only towards State-ownership of land and dwellings and means of communication, all to be administered and worked by State-agents, but towards State-usurpation of all industries: the private forms of which, disadvantaged more and more in competition with the State, which can arrange everything for its own convenience, will more and more die away; just as many voluntary schools have, in presence of Board-schools. And so will be brought about the desired ideal of the socialists.

And now when there has been compassed this desired ideal, which "practical" politicians are helping socialists to reach, and which is so tempting on that bright side which socialists contemplate, what must be the accompanying shady side which they do not contemplate? It is a matter of common remark, often made when a marriage is impending, that those possessed by strong hopes habitually dwell on the promised pleasures and think nothing of the accompanying pains. A further exemplification of this truth is supplied by these political enthusiasts and fanatical revolutionists. Impressed with the miseries existing under our present social arrangements, and not regarding these miseries as caused by the ill-working of a human nature but partially adapted to the social state, they imagine them to be forthwith curable by this or that rearrange-

ment. Yet, even did their plans succeed it could only be by substituting one kind of evil for another. A little deliberate thought would show that under their proposed arrangements, their liberties must be surrendered in proportion as their material welfares were cared for.

For no form of co-operation, small or great, can be carried on without regulation, and an implied submission to the regulating agencies. Even one of their own organizations for effecting social changes yields them proof. It is compelled to have its councils, its local and general officers, its authoritative leaders, who must be obeyed under penalty of confusion and failure. And the experience of those who are loudest in their advocacy of a new social order under the paternal control of a Government, shows that even in private voluntarily-formed societies, the power of the regulative organization becomes great, if not irresistible: often, indeed, causing grumbling and restiveness among those controlled. Trades-unions which carry on a kind of industrial war in defence of workers' interests *versus* employers' interests, find that subordination almost military in its strictness is needful to secure efficient action; for divided councils prove fatal to success. And even in bodies of co-operators, formed for carrying on manufacturing or distributing businesses, and not needing that obedience to leaders which is required where the aims are offensive or defensive, it is still found that the administrative agency gains such supremacy that there arise complaints about "the tyranny of organization." Judge then what must happen when, instead of relatively small combinations, to which men may belong or not as they please, we have a national combination in which each citizen finds himself incorporated, and from which he cannot separate himself without leaving the country. Judge what must under such conditions become the despotism of a graduated

and centralized officialism, holding in its hands the resources of the community and having behind it whatever amount of force it finds requisite to carry out its decrees and maintain what it calls order. Well may Prince Bismarck display leanings towards State-socialism.

And then after recognizing, as they must if they think out their scheme, the power possessed by the regulative agency in the new social system so temptingly pictured, let its advocates ask themselves to what end this power must be used. Not dwelling exclusively, as they habitually do, on the material well-being and the mental gratifications to be provided for them by a beneficent administration, let them dwell a little on the price to be paid. The officials cannot create the needful supplies: they can but distribute among individuals that which the individuals have joined to produce. If the public agency is required to provide for them, it must reciprocally require them to furnish the means. There cannot be, as under our existing system, agreement between employer and employed—this the scheme excludes. There must in place of it be command by local authorities over workers, and acceptance by the workers of that which the authorities assign to them. And this, indeed, is the arrangement distinctly, but as it would seem inadvertently, pointed to by the members of the Democratic Federation. For they propose that production should be carried on by "agricultural and industrial *armies* under State-control": apparently not remembering that armies pre-suppose grades of officers, by whom obedience would have to be insisted upon; since otherwise neither order nor efficient work could be ensured. So that each would stand toward the governing agency in the relation of slave to master.

"But the governing agency would be a master which he and others made and kept constantly in check; and

one which therefore would not control him or others more than was needful for the benefit of each and all."

To which reply the first rejoinder is that, even if so, each member of the community as an individual would be a slave to the community as a whole. Such a relation has habitually existed in militant communities, even under quasi-popular forms of government. In ancient Greece the accepted principle was that the citizen belonged neither to himself nor to his family, but to his city—the city being with the Greek equivalent to the community. And this doctrine, proper to a state of constant warfare, is a doctrine which socialism unawares re-introduces into a state intended to be purely industrial. The services of each will belong to the aggregate of all; and for these services, such returns will be given as the authorities think proper. So that even if the administration is of the beneficent kind intended to be secured, slavery, however mild, must be the outcome of the arrangement.

A second rejoinder is that the administration will presently become not of the intended kind, and that the slavery will not be mild. The socialist speculation is vitiated by an assumption like that which vitiates the speculations of the "practical" politician. It is assumed that officialism will work as it is intended to work, which it never does. The machinery of Communism, like existing social machinery, has to be framed out of existing human nature; and the defects of existing human nature will generate in the one the same evils as in the other. The love of power, the selfishness, the injustice, the untruthfulness, which often in comparatively short times bring private organizations to disaster, will inevitably, where their effects accumulate from generation to generation, work evils far greater and less remediable; since, vast and complex and possessed of all the resources, the administrative organization once developed and consolidated, must

become irresistible. And if there needs proof that the periodic exercise of electoral power would fail to prevent this, it suffices to instance the French Government, which, purely popular in origin, and subject at short intervals to popular judgment, nevertheless tramples on the freedom of citizens to an extent which the English delegates to the late Trades Unions Congress say "is a disgrace to, and an anomaly in, a Republican nation."

The final result would be a revival of despotism. A disciplined army of civil officials, like an army of military officials, gives supreme power to its head—a power which has often led to usurpation, as in mediæval Europe and still more in Japan—nay, has thus so led among our neighbors, within our own times. The recent confessions of M. de Maupas have shown how readily a constitutional head, elected and trusted by the whole people, may, with the aid of a few unscrupulous confederates, paralyze the representative body and make himself autocrat. That those who rose to power in a socialistic organization would not scruple to carry out their aims at all costs, we have good reason for concluding. When we find that shareholders who, sometimes gaining but often losing, have made that railway-system by which national prosperity has been so greatly increased, are spoken of by the council of the Democratic Federation as having "laid hands" on the means of communication, we may infer that those who directed a socialistic administration might interpret with extreme perversity the claims of individuals and classes under their control. And when, further, we find members of this same council urging that the State should take possession of the railways, "with or without compensation," we may suspect that the heads of the ideal society desired, would be but little deterred by considerations of equity from pursuing whatever policy they thought needful: a policy which would always be

one identified with their own supremacy. It would need but a war with an adjacent society, or some internal discontent demanding forcible suppression, to at once transform a socialistic administration into a grinding tyranny like that of ancient Peru; under which the mass of the people, controlled by grades of officials, and leading lives that were inspected out-of-doors and in-doors, labored for the support of the organization which regulated them, and were left with but a bare subsistence for themselves. And then would be completely revived, under a different form, that *régime* of status—that system of compulsory co-operation, the decaying tradition of which is represented by the old Toryism, and towards which the new Toryism is carrying us back.

"But we shall be on our guard against all that—we shall take precautions to ward off such disasters," will doubtless say the enthusiasts. Be they "practical" politicians with their new regulative measures, or communists with their schemes for reorganizing labor, their reply is ever the same:—"It is true that plans of kindred nature have, from unforeseen causes or adverse accidents, or the misdeeds of those concerned, been brought to failure; but this time we shall profit by past experiences and succeed." There seems no getting people to accept the truth, which nevertheless is conspicuous enough, that the welfare of a society and the justice of its arrangements are at bottom dependent on the characters of its members; and that improvement in neither can take place without that improvement in character which results from carrying on peaceful industry under the restraints imposed by an orderly social life. The belief, not only of the socialists but also of those so-called Liberals who are diligently preparing the way for them, is that by due skill an ill-working humanity may be framed into well-working institutions. It is a delusion. The defective natures

of citizens will show themselves in the bad acting of whatever social structure they are arranged into. There is no political alchemy by which you can get golden conduct out of leaden instincts.

HERBERT SPENCER'S "OVER-LEGISLATION"

WITH COMMENTS BY

E. H. GARY

JUDGE GARY'S COMMENTS

LEGISLATION represents the effort of human beings to protect moral, physical and property rights and to promote general prosperity.

There are two kinds of legislation, prohibitive and constructive. There is the third, foolish kind: over-legislation, destructive and interfering.

Of the two useful branches of legislation, the prohibitive tells us what we must not do; its foundation is the Ten Commandments. Constructive legislation, which includes laws as to tariff, financial systems, road-building, co-operating with farmers at public expense, *et cetera*, aims to promote the prosperity of the people as a whole.

The law says, to the individual, "You shall not do this, it would interfere with the rights of others."

The law says to the community or the nation, "You may jointly do this," or "You must do this, to promote the prosperity of all."

As to over-legislation, so brilliantly discussed by Herbert Spencer, it has been the curse of nations, the cause of their downfall; it has interfered with liberty and human progress for as many years as we have records, and many more years undoubtedly.

Over-legislation is abuse of power, self-conceit written into laws, and the arbitrary "You shall do it because I say so." The struggle of men under autocracy has been to obtain freedom from over-legislation. In Magna Charta, the English got from the King the most valuable thing they possess. And it was nothing but a guarantee against over-legislation, a limiting of the

King's right to tax, dispossess, murder or otherwise oppress them in the name of Law.

My friend, who conceived the idea of this interesting series, requests that Herbert Spencer's admirable summary of conditions in England be supplemented with instances of over-legislation in the United States. Details are not needed, for the existence of this nation is in itself a protest against over-legislation.

Our Revolution was a protest against over-legislation inflicted upon us from England.

And note particularly that the very thing which we value most, the Constitution of the United States, the solid wall that stands between the people and the whim of the moment, the caprice of the legislator, tells to the highest as to the lowest what he shall and shall not do.

"Your powers are such, and you shall not go beyond them. You, the executive, shall do thus and so, and not exceed.

"You, the law-maker, you, the judge, shall stay within limits set. You shall not transgress, or through over-legislation violate the rights of others or exceed your powers."

This country is in its essence a protest against over-legislation, and what we call freedom is the result of the constitutional guaranty against over-legislation.

The continued development of this country, of freedom for the individual and the community, with increase of prosperity through developing the power of man, depends upon the life and the power of the Constitution, that instrument of common sense which says: "Keep your hands off, let men work; protect, encourage, but do not interfere."

"Law" fortunately is of all words most respected. But, unfortunately, not enough attention has been paid to differences in law, and to the fact that law like every other force can be abused. Let us take homely comparisons.

Clothing is an excellent thing. A pair of comfortable woollen trousers is a fine thing for man in cold, damp weather.

But our genial friend of olden days in Holland, wearing seven pairs of heavy woollen trousers, was really not seven times happy. And his wife, wearing eight heavy skirts that spread out her hip measure so magnificently, was not to be envied as against her sister of another country moving free and unrestrained in one skirt warm enough.

One warm pair of trousers is common sense law. Seven pairs are over-legislation.

In this country, gentlemen are forever trying to give each of us seven trousers or skirts of over-legislation.

A man well known, enormously rich, had one child, a boy. His wealth came suddenly. Nurses, governesses and tutors surrounded the child. All that he heard was, "Look out, Take care, Don't fall down, You mustn't do this,.You mustn't do that. Mamma doesn't like that, Papa doesn't allow that. Sit straight, Look out for your nice clothes, No, you can't play with that little boy."

There was a poor child suffering from over-legislation. No wonder his father, now dead, said, "I would give a great deal if somebody would tell me how a rich man's child can be brought up so as to have a decent chance in life."

What would Abraham Lincoln have been had he been brought up in a court of nurses, tutors and governesses, listening all day to the monotonous "Don't do it"?

Lincoln was born in freedom, lived, grew and developed in it. He was told emphatically, "You mustn't take what does not belong to you"; and "If you want anything you must work for it." This was all the legislation that his boyhood knew. When he wanted to read at night he built a fire and held his book close to

the fire. When he wanted another book he walked miles to get it. A few tutors with their laws, and a few governesses with their "Don'ts," would have made it necessary for somebody else to settle the Civil War. The effect of over-legislation on Lincoln's backbone would have made it impossible for him to do it.

Do you wonder why successful men are so often boys from the country? In the country there is freedom. In the city, the first thing that the child sees is the policeman who says, "Don't," the sign that says, "Keep off the grass," the rule against playing baseball. Over-legislation presses upon the mind of a child in the city, as it presses upon the brain of a community, killing originality and personality.

A man grows by the exercise of his faculties, and his most important faculty is the will. Over-legislation is an interference with the development of the individual and of the community.

Our ancestors displayed much over-legislating ingenuity. Consider—

The New England law forbidding a man to kiss his wife on Sunday.

A law against exhibiting flowers in the window on Sunday.

They were mild compared with the old laws which said, "If you don't believe in my kind of a god you must be burned alive." In the England of Shakespeare, a man of noble heart could be done to death, because he did not adopt the accepted Protestant religion.

An interesting case of exaggerated use of law is cited. I have not been able to establish its authenticity, but it is typical.

An enterprising Yankee printed some Bibles to sell to colored people in the South. In these Bibles all the saints and angels were colored ladies and gentlemen, quite black. This appealed to the spirit of some of the colored men, and they were persuaded to pay seventy-

five dollars apiece for these rare Bibles which showed colored angels.

Thereupon came a law forbidding in that State the sale of Bibles to colored people. That was over-legislation. It would have been more simple to put in jail the man who swindled his simple-minded customers. To prevent all the honest manufacturers of Bibles from selling to the colored people was not necessary.

And similarly, in our own day, when one man, one group, or one corporation imposes upon public credulity, what is wanted is punishment of that individual or group or corporation, not a hampering through unalterable law of the useful activities of all the citizens and groups and corporations.

Over-legislation sometimes expresses the desire of one class to keep another in mental subjection. For instance, the old law against teaching a slave to read.

Professor White in his admirable book on the warfare between science and theology mentions the fact that "even to the end of the seventeenth century, the oath generally required of professors of astronomy over a large part of Europe prevented their teaching that comets are heavenly bodies obedient to law."

If a slave were taught to read, he might not remain a slave. Over-legislation was designed to prevent that.

If the peasant were taught that the comet that frightened him as a threatening monstrosity is merely a mass of matter obedient to eternal law he would be less easily managed through his superstition. Over-legislation forbade the teaching of the truth, even during the life of Halley, who measured the comet's path, and accurately predicted the day and hour of its return.

If labor is free to-day, it is because over-legislation never has been and never could be permanently effective.

The Venetians possessed industrial secrets and great

efficiency. Their law said that if a man should wander away from Venice, taking the skill of his fellow-workers with him, he should first be warned to come back. If he persisted, competent men should be sent to assassinate him.

But this did not keep the art of making glass and other arts that Venice boasted from spreading over the world.

English law at one time forbade the miserable laborer out of work to go from his own parish, seeking work in another. For this crime the punishment was branding with a red-hot iron. But this over-legislation did not permanently prevent men taking work wherever it was offered them. And no legislation, public or private, will prevent that at any time.

It is known to every citizen that the chief work of our Supreme Court is to prevent over-legislation. The learned judges spend their years of hard work repeating over and over again, "You cannot legislate in this manner. The Constitution forbids it." Without the limiting power of the Constitution, we should have every country constable making laws for his village, every ardent young political gentleman planning to perfect the human race offhand by the law-making power of his own brain.

Over and over the Supreme Court has laid down the law that excessive law-making is in itself a crime against law and the rights of every American citizen, and that excessive legislation, transgressing the established limitations, is forbidden to every law-making body, from a country board of freeholders to the Senate of the United States, from a justice of the peace to the Court of Appeals. "You cannot make laws that are excessive, you cannot twist or write new meanings into the laws." That is the constant order of the Supreme Court, expressing the common sense of the people and defining the one protection under which this country

has grown. Over-legislation interferes with useful activity, it cannot prevent abuses. When the punishment for trivial theft was hanging, there was more stealing than to-day.

A friend reminds me that the first known code of laws, issued by Hamurabi in Babylon twenty-two centuries before Christ, provided for the punishment of women with the familiar ducking stool. Section 143 of that Hamurabi Code, edited by Professor Harper, says:

"If she have not been a careful mistress; if she have gadded about, and have neglected her husband, they shall throw that woman in the water."

Almost four thousand years after that piece of over-legislation went into effect, they were still ducking women in Virginia—where the husband was to pay in tobacco for scandalous talk by his wife and the wife to be ducked once "for every five hundred pounds of tobacco" that the husband failed to pay.

Hamurabi said, "Throw the woman who gossips into the water." His ancestor probably did that very thing ten thousand years before, pushing the lady into a pond. Four thousand years after Hamurabi, Virginia provides a ducking stool for every county, and Pennsylvania and other States have their ducking stools. Gradually we see this mechanical device of over-legislation disappearing. It did not stop gossip. And abandoning it, did not increase gossip.

On the stones before the House of Parliament in London, a few hundred years ago, merchants from small cities might be seen on their knees humbly making offers of fine fish to the law-makers and begging for fewer gallows in the land. "The King has his gallows," they said, "the Bishop has his gallows. We must have our gallows to protect our shops from the thieves. But

with all these gallows working, too many men are hanged."

There was over-legislation in the way of gallows, king, bishop, and the merchants insisting upon the right to hang somebody and each having his own private gallows. That was over-legislation. The number of gallows has fallen off and the number of hangings. Humanity has not suffered by it.

Admirable as is Herbert Spencer's essay on over-legislation, it is believed that the whole subject is condensed and better expressed in a line from Richter that Spencer quotes in his book on education. That the Government which governs least governs best does not mean that men are happy when they do as they please. It means that the best father brings his children up with the least possible nagging and scolding and fewest regulations. And the best Government is that which maintains order, protects the rights and promotes the prosperity of the people with the least possible amount of law writing, interference and ingenious devices for control of the individual.

There is nothing more dangerous than hampering the power of the human intellect, nothing more dangerous than any legislation that puts a limit to the daring or the enterprise of man. In the ancient days the sailors dared not go out of sight of land and the wanderings of their ships followed the coast line.

The Phœnicians, courageous Jews, who taught navigation to the world, did not say "You must not go out of sight of land." That law was not passed fortunately. For if it had been made part of the law of the sea, Columbus would have been compelled to stay within sight of the shore, and Pittsburgh would still be inhabited exclusively by Indians.

Well-meaning men in the United States believe that they serve the public, when they pass laws which say to business enterprise what Queen Isabella would have

said to Columbus, if she had ordered him to remain within sight of land. Fortunately, instead of that she sold her jewelry and said to Columbus, "Go as far as you like." He went, and we who live in his discovered land get the benefit.

It will be said that those who oppose over-legislation demand freedom from wise legislation. All men make mistakes, and checks and counter-checks are needed. Herbert Spencer, for instance, whose wisdom is shown in this essay, most ardently implored his contemporaries to give up their foolish efforts to use "the electro-magnetic battery." He said that the most foolish thing, the most useless squandering of money was represented in the effort to make electricity take the place of steam. He declared solemnly that if men understood anything about science they would know that it was impossible.

He would be surprised if to-day he rode on a trolley car, or was towed by one of the electric engines of the Pennsylvania Railroad, and would be glad that his attempt at intellectual over-legislation, the effort to persuade men to stop men trying to use electricity in place of steam, had failed.

In all the effort for wise legislation and against over-legislation two great tasks and duties should be borne in mind. To protect the individual against the greed and cunning of others, and to prevent interfering with the fullest development of human ingenuity and power.

Enforce the law of Plimsoll line by all means, do not let the owner of the ship through greed risk his sailors' lives; but do not tell him that he shall not build a ship larger than his grandfather built it, or that he shall not carry soup and coal in the same ship if he wants to, and can do it.

Protect the children against those that exploit them, protect the workers of all kinds, big and little, against unfair competition from abroad, harsh conditions and

unreasonable and unhealthful hours. But do not limit opportunity by limiting power. We know that what seems over-legislation in one phase of society may be simple common sense in another. The Red Indian would find it hard to express his contempt for game laws. The cannibal islander would have said to you innocently, "If you forbid cannibalism, my children will starve."

The nomadic Tartars, described by Reclus, while on the march cut meat from the bodies of the miserable animals that they drove before them and kept those animals moving, as they were gradually eaten. They would have resented as foolish over-legislation any law for prevention of cruelty to animals.

It is necessary for a democracy to protect itself against crimes by the individual, and unjust exploitation by the men of unusual cunning, but it is not necessary and it is not wise by over-legislation to limit man's efficiency and productive power.

Those who sought by law to prevent the use of locomotives because they would put hundreds of stage-coach drivers out of work could not see that the same locomotives would employ millions of men.

The woman who persuaded her husband to destroy his first model of a sewing machine because it would take work from poor sewing girls represented the over-legislation idea admirably.

If she had had her way, Hood's *Song of the Shirt* would still be sung. The electric sewing machine to which the sewing woman is now harnessed is not ideal, but it is better than the needle and the eyesight destroyed.

When we read Herbert Spencer quoting with approval the official statement, "Wherever there is government there is villainy," we remember that it is also true that wherever there is no government there is anarchy.

The task of mankind is still, as in the day of Aristotle, to find the just medium, to avoid excess, to strive for the ideal, "Not too much, not too little."

There is a dangerous excess of law-making at the present time, especially in the States, though they have no monopoly of it. Almost every conceivable form of bill is introduced and too many of them passed; and as to a large percentage of them, there is much waste of time and expense in determining whether or not they are constitutional or practical. The adjournment of legislatures brings a general sigh of relief.

From time to time there returns on the cautious thinker, the conclusion that, considered simply as a question of probabilities, it is unlikely that his views upon any debatable topic are correct. "Here," he reflects, "are thousands around me holding on this or that point opinions differing from mine—wholly in many cases; partially in most others. Each is as confident as I am of the truth of his convictions. Many of them are possessed of great intelligence; and, rank myself high as I may, I must admit that some are my equals—perhaps my superiors. Yet, while every one of us is sure he is right, unquestionably most of us are wrong. Why should not I be among the mistaken? True, I cannot realize the likelihood that I am so. But this proves nothing; for though the majority of us are necessarily in error, we all labor under the inability to think we are in error. Is it not then foolish thus to trust myself? When I look back into the past, I find nations, sects, theologians, philosophers, cherishing beliefs in science, morals, politics, and religion, which we decisively reject. Yet they held them with a faith quite as strong as ours: nay—stronger, if their intolerance of dissent is any criterion. Of what little worth, therefore, seems this strength of my conviction that I am right! A like warrant has been felt by men all the world through; and, in nine cases out of ten, has proved

a delusive warrant. Is it not then absurd in me to put so much faith in my judgments?"

Barren of practical results as this reflection at first sight appears, it may, and indeed should, influence some of our most important proceedings. Though in daily life we are constantly obliged to act out our inferences, trustless as they may be—though in the house, in the office, in the street, there hourly arise occasions on which we may not hesitate; seeing that if to act is dangerous, never to act at all is fatal—and though, consequently, on our private conduct, this abstract doubt as to the worth of our judgments, must remain inoperative; yet, in our public conduct, we may properly allow it to weigh. Here decision is no longer imperative; while the difficulty of deciding aright is incalculably greater. Clearly as we may think we see how a given measure will work, we may infer, drawing the above induction from human experience, that the chances are many against the truth of our anticipations. Whether in most cases it is not wiser to do nothing, becomes now a rational question. Continuing his self-criticism, the cautious thinker may reason:—"If in these personal affairs, where all the conditions of the case were known to me, I have so often miscalculated, how much oftener shall I miscalculate in political affairs, where the conditions are too numerous, too widespread, too complex, too obscure to be understood. Here, doubtless, is a social evil and there a desideratum; and were I sure of doing no mischief I would forthwith try to cure the one and achieve the other. But when I remember how many of my private schemes have miscarried—how speculations have failed, agents proved dishonest, marriage been a disappointment—how I did but pauperize the relative I sought to help—how my carefully-governed son has turned out worse than most children—how the thing I desperately strove against as a misfortune did me immense good—how while the ob-

jects I ardently pursued brought me little happiness when gained, most of my pleasures have come from unexpected sources; when I recall these and hosts of like facts, I am struck with the incompetence of my intellect to prescribe for society. And as the evil is one under which society has not only lived but grown, while the desideratum is one it may spontaneously obtain, as it has most others, in some unforeseen way, I question the propriety of meddling."

There is a great want of this practical humility in our political conduct. Though we have less self-confidence than our ancestors, who did not hesitate to organize in law their judgments on all subjects whatever, we have yet far too much. Though we have ceased to assume the infallibility of our theological beliefs and so ceased to enact them, we have not ceased to enact hosts of other beliefs of an equally doubtful kind. Though we no longer presume to coerce men for their *spiritual good*, we still think ourselves called upon to coerce them for their *material good:* not seeing that the one is as useless and as unwarrantable as the other. Innumerable failures seem, so far, powerless to teach this. Take up a daily paper and you will probably find a leader exposing the corruption, negligence, or mismanagement of some State-department. Cast your eye down the next column, and it is not unlikely that you will read proposals for an extension of State-supervision. Yesterday came a charge of gross carelessness against the Colonial office. To-day Admiralty bunglings are burlesqued. To-morrow brings the question—"Should there not be more coal-mine inspectors?" Now there is a complaint that the Board of Health is useless; and now an outcry for more railway regulation. While your ears are still ringing with denunciations of Chancery abuses, or your cheeks still glowing with indignation at some well-exposed iniquity of the

Ecclesiastical Courts, you suddenly come upon suggestions for organizing "a priesthood of science." Here is a vehement condemnation of the police for stupidly allowing sight-seers to crush each other to death. You look for the corollary that official regulation is not to be trusted; when, instead, *à propos* of a shipwreck, you read an urgent demand for government-inspectors to see that ships always have their boats ready for launching. Thus, while every day chronicles a failure, there every day reappears the belief that it needs but an Act of Parliament and a staff of officers to effect any end desired. Nowhere is the perennial faith of mankind better seen. Ever since society existed Disappointment has been preaching—"Put not your trust in legislation"; and yet the trust in legislation seems scarcely diminished.

Did the State fulfil efficiently its unquestionable duties, there would be some excuse for this eagerness to assign it further duties. Were there no complaints of its faulty administration of justice; of its endless delays and untold expenses; of its bringing ruin in place of restitution; of its playing the tyrant where it should have been the protector—did we never hear of its complicated stupidities; its 20,000 statutes, which it assumes all Englishmen to know, and which not one Englishman does know; its multiplied forms, which, in the effort to meet every contingency, open far more loopholes than they provide against—had it not shown its folly in the system of making every petty alteration by a new act, variously affecting innumerable preceding acts; or in its score of successive sets of Chancery rules, which so modify, and limit, and extend, and abolish, and alter each other, that not even Chancery lawyers know what the rules are—were we never astounded by such a fact as that, under the system of land registration in Ireland, 6,000*l.* have been spent in a "negative search" to establish the title of an estate—

did we find in its doing no such terrible incongruity as the imprisonment of a hungry vagrant for stealing a turnip, while for the gigantic embezzlements of a railway director it inflicts no punishment;—had we, in short, proved its efficiency as judge and defender, instead of having found it treacherous, cruel, and anxiously to be shunned, there would be some encouragement to hope other benefits at its hands.

Or if, while failing in its judicial functions, the State had proved itself a capable agent in some other department—the military for example—there would have been some show of reason for extending its sphere of action. Suppose that it had rationally equipped its troops, instead of giving them cumbrous and ineffective muskets, barbarous grenadier caps, absurdly heavy knapsacks and cartouche-boxes, and clothing colored so as admirably to help the enemy's marksmen—suppose that it organized well and economically, instead of salarying an immense superfluity of officers, creating sinecure colonelcies of 4,000*l.* a year, neglecting the meritorious and promoting incapables—suppose that its soldiers were always well housed instead of being thrust into barracks that invalid hundreds, as at Aden, or that fall on their occupants, as at Loodianah, where ninety-five were thus killed—suppose that, in actual war, it had shown due administrative ability, instead of occasionally leaving its regiments to march barefoot, to dress in patches, to capture their own engineering tools, and to fight on empty stomachs, as during the Peninsular campaign;—suppose all this, and the wish for more State-control might still have had some warrant.

Even though it had bungled in everything else, yet had it in one case done well—had its naval management alone been efficient—the sanguine would have had a colorable excuse for expecting success in a new field. Grant that the reports about bad ships, ships that will

not sail, ships that have to be lengthened, ships with unfit engines, ships that will not carry their guns, ships without stowage, and ships that have to be broken up, are all untrue—assume those to be mere slanderers who say that the *Megæra* took double the time taken by a commercial steamer to reach the Cape; that during the same voyage the *Hydra* was three times on fire, and needed the pumps kept going day and night; that the *Charlotte* troop-ship set out with 75 days' provisions on board, and was three months in reaching her destination; that the *Harpy*, at an imminent risk of life, got home in 110 days from Rio—disregard as calumnies the statements about septuagenarian admirals, dilettante ship building, and "cooked" dockyard accounts—set down the affair of the Goldner preserved meats as a myth, and consider Professor Barlow mistaken when he reported of the Admiralty compasses in store, that "at least one-half were mere lumber";—let all these, we say, be held groundless charges, and there would remain for the advocates of much government some basis for their political air-castles, spite of military and judicial mismanagement.

As it is, however, they seem to have read backwards the parable of the talents. Not to the agent of proved efficiency do they consign further duties, but to the negligent and blundering agent. Private enterprise has done much, and done it well.. Private enterprise has cleared, drained, and fertilized the country, and built the towns—has excavated mines, laid out roads, dug canals, and embanked railways—has invented, and brought to perfection ploughs, looms, steam-engines, printing-presses, and machines innumerable—has built our ships, our vast manufactories, our docks—has established banks, insurance societies, and the newspaper press—has covered the sea with lines of steam-vessels, and the land with electric telegraphs. Private enterprise has brought agriculture, manufactures, and com-

merce to their present height, and is now developing them with increasing rapidity. Therefore, do not trust private enterprise. On the other hand, the State so fulfils its judicial function as to ruin many, delude others, and frighten away those who most need succor; its national defences are so extravagantly and yet inefficiently administered, as to call forth almost daily complaint, expostulation, or ridicule; and as the nation's steward, it obtains from some of our vast public estates a minus revenue. Therefore, trust the State. Slight the good and faithful servant, and promote the unprofitable one from one talent to ten.

Seriously, the case, while it may not, in some respects, warrant this parallel, is, in one respect, even stronger. For the new work is not of the same order as the old, but of a more difficult order. Ill as government discharges its true duties, any other duties committed to it are likely to be still worse discharged. To guard its subjects against aggression, either individual or national, is a straightforward and tolerably simple matter; to regulate, directly or indirectly, the personal actions of those subjects is an infinitely complicated matter. It is one thing to secure to each man the unhindered power to pursue his own good; it is a widely different thing to pursue the good for him. To do the first efficiently, the State has merely to look on while its citizens act; to forbid unfairness; to adjudicate when called on; and to enforce restitution for injuries. To do the last efficiently, it must become an ubiquitous worker—must know each man's needs better than he knows them himself—must, in short, possess superhuman power and intelligence. Even, therefore, had the State done well in its proper sphere, no sufficient warrant would have existed for extending that sphere; but seeing how ill it has discharged those simple offices which we cannot help consigning to it, small in-

deed is the probability that it will discharge well offices of a more complicated nature.

Change the point of view however we may, and this conclusion still presents itself. If we define the primary State-duty to be that of protecting each individual against others, then, all other State-action comes under the definition of protecting each individual against himself—against his own stupidity, his own idleness, his own improvidence, rashness, or other defect—his own incapacity for doing something or other which should be done. There is no questioning this classification. For manifestly all the obstacles that lie between a man's desires and the satisfaction of them are either obstacles arising from other men's counter desires, or obstacles arising from inability in himself. Such of these counter desires as are just, have as much claim to satisfaction as his; and may not, therefore, be thwarted. Such of them as are unjust, it is the State's duty to hold in check. The only other possible sphere for it, therefore, is that of saving the individual from the consequences of his nature, or, as we say—protecting him against himself. Making no comment, at present, on the policy of this, and confining ourselves solely to the practicability of it, let us inquire how the proposal looks when reduced to its simplest form. Here are men possessed of instincts, and sentiments, and perceptions, all conspiring to self-preservation. The due action of each brings its quantum of pleasure; the inaction, its more or less of pain. Those provided with these faculties in due proportions prosper and multiply; those ill-provided tend to die out. And the general success of this human organization is seen in the fact that under it the world has been peopled, and by it the complicated appliances and arrangements of civilized life have been developed. It is complained, however, that there are certain directions in which this apparatus of motives works but imper-

fectly. While it is admitted that men are duly prompted by it to bodily sustenance, to the obtainment of clothing and shelter, to marriage and the care of offspring, and to the establishment of the more important industrial and commercial agencies; it is argued that there are many desiderata, as pure air, more knowledge, good water, safe travelling, and so forth, which it does not duly achieve. And these shortcomings being assumed permanent, it is urged that some supplementary means must be employed. It is therefore proposed that out of the mass of men a certain number, constituting the legislature, shall be instructed to attain these various objects. The legislators thus instructed (all characterized, on the average, by the same defects in this apparatus of motives as men in general), being unable personally to fulfil their tasks, must fulfil them by deputy—must appoint commissions, boards, councils, and staffs of officers; and must construct their agencies of this same defective humanity that acts so ill. Why now should this system of complex deputation succeed where the system of simple deputation does not? The industrial, commercial, and philanthropic agencies, which citizens form spontaneously, are directly deputed agencies; these governmental agencies made by electing legislators who appoint officers are indirectly deputed ones. And it is hoped that, by this process of double deputation, things may be achieved which the process of single deputation will not achieve. What is the rationale of this hope? Is it that legislators, and their employés, are made to feel more intensely than the rest these evils they are to remedy, these wants they are to satisfy? Hardly; for by position they are mostly relieved from such evils and wants. Is it, then, that they are to have the primary motive replaced by a secondary motive—the fear of public displeasure, and ultimate removal from office? Why scarcely; for the minor benefits which

citizens will not organize to secure *directly*, they will not organize to secure *indirectly*, by turning out inefficient servants: especially if they cannot readily get efficient ones. Is it, then, that these State-agents are to do from a sense of duty, what they would not do from any other motive? Evidently this is the only possibility remaining. The proposition on which the advocates of much government have to fall back is, that things which the people will not unite to effect for personal benefit, a law-appointed portion of them will unite to effect for the benefit of the rest. Public men and functionaries love their neighbors better than themselves! The philanthropy of statesmen is stronger than the selfishness of citizens!

No wonder, then, that every day adds to the list of legislative miscarriages. If colliery explosions increase, notwithstanding the appointment of coal-mine inspectors, why it is but a natural sequence to these false methods. If Sunderland shipowners complain that, as far as tried, "the Mercantile Marine Act has proved a total failure"; and if, meanwhile, the other class affected by it—the sailors—show their disapprobation by extensive strikes; why it does but exemplify the folly of trusting a theorizing benevolence rather than an experienced self-interest. On all sides we may expect such facts; and on all sides we find them. Government, turning engineer, appoints its lieutenant, the Sewers' Commission, to drain London. Presently Lambeth sends deputations to say that it pays heavy rates, and gets no benefit. Tired of waiting, Bethnal-green calls meetings to consider "the most effectual means of extending the drainage of the district." From Wadsworth come complainants, who threaten to pay no more until something is done. Camberwell proposes to raise a subscription and do the work itself. Meanwhile, no progress is made towards the purification of the Thames; the weekly returns show an increasing

rate of mortality; in Parliament, the friends of the Commission have nothing save good intentions to urge in mitigation of censure; and, at length, despairing ministers gladly seize an excuse for quietly shelving the Commission and its plans altogether. As architectural surveyor, the State has scarcely succeeded better than as engineer; witness the Metropolitan Buildings' Act. New houses still tumble down from time to time. A few months since two fell at Bayswater, and one more recently near the Pentonville Prison: all notwithstanding prescribed thicknesses, and hoop-iron bond, and inspectors. It never struck those who provided these delusive sureties, that it was possible to build walls without bonding the two surfaces together, so that the inner layer might be removed after the surveyor's approval. Nor did they foresee that, in dictating a larger *quantity* of bricks than experience proved absolutely needful, they were simply insuring a slow deterioration of *quality* to an equivalent extent. The government guarantee for safe passenger ships answers no better than its guarantee for safe houses. Though the burning of the *Amazon* arose from either bad construction or bad stowage, she had received the Admiralty certificate before sailing. Notwithstanding official approval, the *Adelaide* was found, on her first voyage, to steer ill, to have useless pumps, ports that let floods of water into the cabins, and coals so near the furnaces that they twice caught fire. The *W. S. Lindsay*, which turned out unfit for sailing, had been passed by the government agent; and, but for the owner, might have gone to sea at a great risk of life. The *Melbourne*—originally a State-built ship—which took twenty-four days to reach Lisbon, and then needed to be docked to undergo a thorough repair, had been duly inspected. And lastly, the notorious *Australian*, before her third futile attempt to proceed on her voyage, had, her owners tell us, received "the full approbation of the govern-

ment inspector." Neither does the like supervision give security to land-travelling. The iron bridge at Chester, which, breaking, precipitated a train into the Dee, had passed under the official eye. Inspection did not prevent a column on the South-Eastern from being so placed as to kill a man who put his head out of the carriage window. The locomotive that burst at Brighton lately did so notwithstanding a State-approval given but ten days previously. And—to look at the facts in the gross—this system of supervision has not prevented the increase of railway accidents; which, be it remembered, has arisen *since* the system was commenced.

"Well; let the State fail. It can but do its best. If it succeed, so much the better: if it do not, where is the harm? Surely it is wiser to act, and take the chance of success, than to do nothing." To this plea the rejoinder is that, unfortunately, the results of legislative intervention are not only negatively bad, but often positively so. Acts of Parliament do not simply fail; they frequently make worse. The familiar truth that persecution aids rather than hinders proscribed doctrines—a truth lately afresh illustrated by the forbidden work of Gervinus—is a part of the general truth that legislation often does indirectly the reverse of that which it directly aims to do. Thus has it been with the Metropolitan Buildings' Act. As was lately agreed unanimously by the delegates from all the parishes in London, and as was stated by them to Sir William Molesworth, this act "has encouraged bad building, and has been the means of covering the suburbs of the metropolis with thousands of wretched hovels, which are a disgrace to a civilized country." Thus, also, has it been in provincial towns. The Nottingham Inclosure Act of 1845, by prescribing the structure of the houses to be built, and the extent of yard or garden to be allotted to each, has rendered it impossible to build

working-class dwellings at such moderate rents as to compete with existing ones. It is estimated that, as a consequence, 10,000 of the population are debarred from the new homes they would otherwise have, and are forced to live crowded together in miserable places unfit for human habitation; and so, in its anxiety to insure healthy accommodation for artisans, the law has entailed on them still worse accommodations than before. Thus, too, has it been with the Passengers' Act. The terrible fevers which arose in the Australian emigrant ships a few months since, causing in the *Bourneuf* 83 deaths, in the *Wanota* 39 deaths, in the *Marco Polo* 53 deaths, and in the *Ticonderoga* 104 deaths, arose in vessels sent out by the government; and arose *in consequence* of the close packing which the Passengers' Act authorizes. Thus, moreover, has it been with the safeguards provided by the Mercantile Marine Act. The examinations devised for insuring the efficiency of captains have had the effect of certifying the superficially-clever and unpractised men, and, as we are told by a shipowner, rejecting many of the long-tried and most trustworthy: the general result being that *the ratio of shipwrecks has increased.* Thus also has it happened with Boards of Health, which have, in sundry cases, exacerbated the evils to be removed; as, for instance, at Croydon, where, according to the official report, the measures of the sanitary authorities produced an epidemic, which attacked 1,600 people and killed 70. Thus again has it been with the Joint Stock Companies Registration Act. As was shown by Mr. James Wilson, in his late motion for a select committee on life-assurance associations, this measure, passed in 1844 to guard the public against bubble schemes, actually facilitated the rascalities of 1845 and subsequent years. The legislative sanction, devised as a guarantee of genuineness, and supposed by the people to be such, clever adventurers have without difficulty

obtained for the most worthless projects. Having obtained it, an amount of public confidence has followed which they could never otherwise have gained. In this way literally hundreds of sham enterprises that would not else have seen the light have been fostered into being; and thousands of families have been ruined who would never have been so but for legislative efforts to make them more secure.

Moreover, when these topical remedies applied by statesmen do not exacerbate the evils they were meant to cure, they constantly induce collateral evils; and these often graver than the original ones. It is the vice of this empirical school of politicians that they never look beyond proximate causes and immediate effects. In common with the uneducated masses they habitually regard each phenomenon as involving but one antecedent and one consequent. They do not bear in mind that each phenomenon is a link in an infinite series—is the result of myriads of preceding phenomena, and will have a share in producing myriads of succeeding ones. Hence they overlook the fact that, in disturbing any natural chain of sequences, they are not only modifying the result next in succession, but all the future results into which this will enter as a part cause. The serial genesis of phenomena, and the interaction of each series upon every other series, produces a complexity utterly beyond human grasp. Even in the simplest cases this is so. A servant who puts coals on the fire sees but few effects from the burning of a lump. The man of science, however, knows that there are very many effects. He knows that the combustion establishes numerous atmospheric currents, and through them moves thousands of cubic feet of air inside the house and out. He knows that the heat diffused causes expansions and subsequent contractions of all bodies within its range. He knows that the persons warmed are affected in their

rate of respiration and their waste of tissue; and that these physiological changes must have various secondary results. He knows that, could he trace to their ramified consequences all the forces disengaged, mechanical, chemical, thermal, electric—could he enumerate all the subsequent effects of the evaporation caused, the gases generated, the light evolved, the heat radiated; a volume would scarcely suffice to enter them. If, now, from a simple inorganic change such numerous and complex results arise, how infinitely multiplied and involved must be the ultimate consequences of any force brought to bear upon society. Wonderfully constructed as it is—mutually dependent as are its members for the satisfaction of their wants—affected as each unit of it is by his fellows, not only as to his safety and prosperity, but in his health, his temper, his culture; the social organism cannot be dealt with in any one part, without all other parts being influenced in ways which cannot be foreseen. You put a duty on paper, and by-and-by find that, through the medium of the jacquard-cards employed, you have inadvertently taxed figured silk, sometimes to the extent of several shillings per piece. On removing the impost from bricks, you discover that its existence had increased the dangers of mining, by preventing shafts from being lined and workings from being tunnelled. By the excise on soap, you have, it turns out, greatly encouraged the use of caustic washing-powders; and so have unintentionally entailed an immense destruction of clothes. In every case you perceive, on careful inquiry, that besides acting upon that which you sought to act upon, you have acted upon many other things, and each of these again on many others; and so have propagated a multitude of changes in all directions. We need feel no surprise, then, that in their efforts to cure specific evils, legislators have continually caused collateral evils they never looked for. No Carlyle's wisest

man, nor any body of such, could avoid causing them. Though their production is explicable enough after it has occurred, it is never anticipated. When, under the New Poor-Law, provision was made for the accommodation of vagrants in the Union-houses, it was hardly expected that a body of tramps would be thereby called into existence, who would spend their time in walking from Union to Union throughout the kingdom. It was little thought by those who in past generations assigned parish-pay for the maintenance of illegitimate children, that, as a result, a family of such would by-and-by be considered a small fortune, and the mother of them a desirable wife; nor did the same statesmen see that, by the law of settlement, they were organizing a disastrous inequality of wages in different districts, and entailing a system of clearing away cottages, which would result in the crowding of bedrooms, and in a consequent moral and physical deterioration. The English tonnage law was enacted simply with a view to regulate the mode of measurement. Its framers overlooked the fact that they were practically providing "for the effectual and compulsory construction of bad ships"; and that "to cheat the law, that is, to build a tolerable ship in spite of it, was the highest achievement left to an English builder." Greater commercial security was alone aimed at by the partnership law. We now find, however, that the unlimited liability it insists upon is a serious hindrance to progress; it practically forbids the association of small capitalists; it is found a great obstacle to the building of improved dwellings for the people; it prevents a better relationship between artisans and employers; and by withholding from the working-classes good investments for their savings, it checks the growth of provident habits and encourages drunkenness. Thus on all sides are well-meant measures producing unforeseen mischiefs—a licensing law that promotes the adulteration of beer; a ticket-of-

leave system that encourages men to commit crime; a police regulation that forces street-huxters into the workhouse. And then, in addition to the obvious and proximate evils, come the remote and less distinguishable ones, which, could we estimate their accumulated result, we should probably find even more serious.

But the thing to be discussed is, not so much whether, by any amount of intelligence, it is *possible* for a government to work out the various ends consigned to it, as whether its fulfilment of them is *probable*. It is less a question of *can* than a question of *will*. Granting the absolute competence of the State, let us consider what hope there is of getting from it satisfactory performance. Let us look at the moving force by which the legislative machine is worked, and then inquire whether this force is thus employed as economically as it would otherwise be.

Manifestly, as desire of some kind is the invariable stimulus to action in the individual, every social agency, of what nature soever, must have some aggregate of desires for its motive power. Men in their collective capacity can exhibit no result but what has its origin in some appetite, feeling, or taste common among them. Did not they like meat, there could be no cattle-graziers, no Smithfield, no distributing organization of butchers. Operas, Philharmonic Societies, song-books, and street organ-boys, have all been called into being by our love of music. Look through the trades' directory; take up a guide to the London sights; read the index of Bradshaw's time-tables, the reports of the learned societies, or the advertisements of new books; and you see in the publication itself, and in the things it describes, so many products of human activities, stimulated by human desires. Under this stimulus grow up agencies alike the most gigantic and the most insignificant, the most complicated and the most simple—

agencies for national defence and for the sweeping of crossings; for the daily distribution of letters, and for the collection of bits of coal out of the Thames mud—agencies that subserve all ends, from the preaching of Christianity to the protection of ill-treated animals; from the production of bread for a nation to the supply of groundsel for caged singing-birds. The accumulated desires of individuals being, then, the moving power by which every social agency is worked, the question to be considered is—Which is the most economical kind of agency? The agency having no power in itself, but being merely an instrument, our inquiry must be for the most efficient instrument—the instrument that costs least, and wastes the smallest amount of the moving power—the instrument least liable to get out of order, and most readily put right again when it goes wrong. Of the two kinds of social mechanism exemplified above, the spontaneous and the governmental, which is the best?

From the form of this question will be readily foreseen the intended answer—that is the best mechanism which contains the fewest parts. The common saying—"What you wish well done you must do yourself," embodies a truth equally applicable to political life as to private life. The experience that farming by bailiff entails loss, while tenant-farming pays, is an experience still better illustrated in national history than in a landlord's account books. This transference of power from constituencies to members of parliament, from these to the executive, from the executive to a board, from the board to inspectors, and from inspectors through their subs down to the actual workers—this operating through a series of levers, each of which absorbs in friction and inertia part of the moving force; is as bad, in virtue of its complexity, as the direct employment by society of individuals, private companies, and spontaneously-formed institutions, is good

in virtue of its simplicity. Fully to appreciate the contrast, we must compare in detail the working of the two systems.

Officialism is habitually slow. When non-governmental agencies are dilatory, the public has its remedy: it ceases to employ them and soon finds quicker ones. Under this discipline all private bodies are taught promptness. But for delays in State-departments there is no such easy cure. Life-long Chancery suits must be patiently borne; Museum-catalogues must be wearily waited for. While, by the people themselves, a Crystal Palace is designed, erected, and filled, in the course of a few months, the legislature takes twenty years to build itself a new house. While, by private persons, the debates are daily printed and dispersed over the kingdom within a few hours of their utterance, the Board of Trade tables are regularly published a month, and sometimes more, after date. And so throughout. Here is a Board of Health which, since 1849, has been about to close the metropolitan graveyards, but has not done it yet; and which has so long dawdled over projects for cemeteries, that the London Necropolis Company has taken the matter out of its hands. Here is a patentee who has had fourteen years' correspondence with the Horse Guards, before getting a definite answer respecting the use of his improved boot for the Army. Here is a Plymouth port-admiral who delays sending out to look for the missing boats of the *Amazon* until ten days after the wreck.

Again, officialism is stupid. Under the natural course of things each citizen tends towards his fittest function. Those who are competent to the kind of work they undertake, succeed, and, in the average of cases, are advanced in proportion to their efficiency; while the incompetent, society soon finds out, ceases to employ, forces to try something easier, and eventually turns to use. But it is quite otherwise in State-organi-

zations. Here, as every one knows, birth, age, backstairs intrigue, and sycophancy, determine the selections rather than merit. The "fool of the family" readily finds a place in the Church, if "the family" have good connections. A youth too ill-educated for any profession does very well for an officer in the Army. Grey hair, or a title, is a far better guarantee of naval promotion than genius is. Nay, indeed, the man of capacity often finds that, in government offices, superiority is a hindrance—that his chiefs hate to be pestered with his proposed improvements, and are offended by his implied criticisms. Not only, therefore, is legislative machinery complex, but it is made of inferior materials. Hence the blunders we daily read of—the supplying to the dockyards from the royal forests of timber unfit for use; the administration of relief during the Irish famine in such a manner as to draw laborers from the field, and diminish the subsequent harvest by one-fourth; the filing of patents at three different offices and keeping an index at none. Everywhere does this bungling show itself, from the elaborate failure of House of Commons ventilation down to the publication of *The London Gazette*, which invariably comes out wrongly folded.

A further characteristic of officialism is its extravagance. In its chief departments, Army, Navy, and Church, it employs far more officers than are needful, and pays some of the useless ones exorbitantly. The work done by the Sewers Commission has cost, as Sir B. Hall tells us, from 300 to 400 per cent. over the contemplated outlay; while the management charges have reached 35, 40, and 45 per cent. on the expenditure. The trustees of Ramsgate Harbor—a harbor, by the way, that has taken a century to complete—are spending 18,000*l.* a year in doing what 5,000*l.* has been proved sufficient for. The Board of Health is causing new surveys to be made of all the towns under its

control—a proceeding which, as Mr. Stephenson states, and as every tyro in engineering knows, is, for drainage purposes, a wholly needless expense. These public agencies are subject to no such influence as that which obliges private enterprise to be economical. Traders and mercantile bodies succeed by serving society cheaply. Such of them as cannot do this are continually supplanted by those who can. They cannot saddle the nation with the results of their extravagance, and so are prevented from being extravagant. On works that are to return a profit it does not answer to spend 48 per cent. of the capital in superintendence, as in the engineering department of the Indian Government; and Indian railway companies, knowing this, manage to keep their superintendence charges within 8 per cent. A shopkeeper leaves out of his accounts no item analogous to that 6,000,000*l.* of its revenues, which Parliament allows to be deducted on the way to the Exchequer. Walk through a manufactory, and you see that the stern alternatives, carefulness or ruin, dictate the saving of every penny; visit one of the national dockyards, and the comments you make on any glaring wastefulness are carelessly met by the slang phrase—"Nunky pays."

The unadaptiveness of officialism is another of its vices. Unlike private enterprise which quickly modifies its actions to meet emergencies—unlike the shopkeeper who promptly finds the wherewith to satisfy a sudden demand—unlike the railway company which doubles its trains to carry a special influx of passengers; the law-made instrumentality lumbers on under all varieties of circumstances through its ordained routine at its habitual rate. By its very nature it is fitted only for average requirements, and inevitably fails under unusual requirements. You cannot step into the street without having the contrast thrust upon you. Is it summer? You see the water-carts going their pre-

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scribed rounds with scarcely any regard to the needs of the weather—to-day sprinkling afresh the already moist roads; to-morrow bestowing their showers with no greater liberality upon roads cloudy with dust. Is it winter? You see the scavengers do not vary in number and activity according to the quantity of mud; and if there comes a heavy fall of snow, you find the thoroughfares remaining for nearly a week in a scarcely passable state, without an effort being made, even in the heart of London, to meet the exigency. The late snow-storm, indeed, supplied a neat antithesis between the two orders of agencies in the effects it respectively produced on omnibuses and cabs. Not being under a law-fixed tariff, the omnibuses put on extra horses and raised their fares. The cabs, on the contrary, being limited in their charges by an Act of Parliament which, with the usual shortsightedness, never contemplated such a contingency as this, declined to ply, deserted the stands and the stations, left luckless travellers to stumble home with their luggage as best they might, and so became useless at the very time of all others when they were most wanted! Not only by its unsusceptibility of adjustment does officialism entail serious inconveniences, but it likewise entails great injustices. In this case of cabs, for example, it has resulted since the late change of law, that old cabs, which were before saleable at 10*l.* and 12*l.* each, are now unsaleable and have to be broken up; and thus legislation has robbed cab-proprietors of part of their capital. Again, the recently-passed Smoke-Bill for London, which applies only within certain prescribed limits, has the effect of taxing one manufacturer while leaving untaxed his competitor working within a quarter of a mile; and so, as we are credibly informed, gives one an advantage of 1,500*l.* a year over another. These typify the infinity of wrongs, varying in degrees of hardship, which legal regulations necessarily involve. Society, a living,

growing organism, placed within apparatuses of dead, rigid, mechanical formulas, cannot fail to be hampered and pinched. The only agencies which can efficiently serve it are those through which its pulsations hourly flow, and which change as it changes.

How invariably officialism becomes corrupt every one knows. Exposed to no such antiseptic as free competition—not dependent for existence, as private unendowed organizations are, on the maintenance of a vigorous vitality; all law-made agencies fall into an inert, over-fed state, from which to disease is a short step. Salaries flow in irrespective of the activity with which duty is performed; continue after duty wholly ceases; become rich prizes for the idle well born; and prompt to perjury, to bribery, to simony. East India directors are elected not for any administrative capacity they have; but they buy votes by promised patronage—a patronage alike asked and given in utter disregard of the welfare of a hundred millions of people. Registrars of wills not only get many thousands a year each for doing work which their miserably paid deputies leave half done; but they, in some cases, defraud the revenue, and that after repeated reprimands. Dockyard promotion is the result not of efficient services, but of political favoritism. That they may continue to hold rich livings, clergymen preach what they do not believe; bishops make false returns of their revenues; and at their elections to fellowships, well-to-do priests severally make oath that they are *pauper, pius et doctus*. From the local inspector whose eyes are shut to an abuse by a contractor's present, up to the prime minister who finds lucrative berths for his relations, this venality is daily illustrated; and that in spite of public reprobation and perpetual attempts to prevent it. As we once heard said by a State-official of twenty-five years' standing—"Wherever there is government there is villainy." It is the inevitable result

of destroying the direct connection between the profit obtained and the work performed. No incompetent person hopes, by offering a *douceur* in the *Times*, to get a permanent place in a mercantile office. But where, as under government, there is no employer's self-interest to forbid—where the appointment is made by some one on whom inefficiency entails no loss; there a *douceur* is operative. In hospitals, in public charities, in endowed schools, in all social agencies in which duty done and income gained do not go hand in hand, the like corruption is found; and is great in proportion as the dependence of income upon duty is remote. In State-organizations, therefore, corruption is unavoidable. In trading-organizations it rarely makes its appearance, and when it does, the instinct of self-preservation soon provides a remedy.

To all which broad contrasts add this, that while private bodies are enterprising and progressive, public bodies are unchanging, and, indeed, obstructive. That officialism should be inventive nobody expects. That it should go out of its easy mechanical routine to introduce improvements, and this at a considerable expense of thought and application, without the prospect of profit, is not to be supposed. But it is not simply stationary; it resists every amendment either in itself or in anything with which it deals. Until now that County Courts are taking away their practice, all agents of the law have doggedly opposed law-reform. The universities have maintained an old *curriculum* for centuries after it ceased to be fit; and are now struggling to prevent a threatened reconstruction. Every postal improvement has been vehemently protested against by the postal authorities. Mr. Whiston can say how pertinacious is the conservatism of Church grammar-schools. Not even the gravest consequences in view preclude official resistance: witness the fact that though, as already mentioned, Professor Barlow re-

ported in 1820, of the Admiralty compasses then in store, that "at least one-half were mere lumber," yet notwithstanding the constant risk of shipwrecks thence arising, "very little amelioration in this state of things appears to have taken place until 1838 to 1840." Nor is official obstructiveness to be readily overborne even by a powerful public opinion: witness the fact that though, for generations, nine-tenths of the nation have disapproved this ecclesiastical system which pampers the drones and starves the workers, and though commissions have been appointed to rectify it, it still remains substantially as it was: witness again the fact that though, since 1818, there have been a score attempts to rectify the scandalous maladministration of Charitable Trusts—though ten times in ten successive years remedial measures have been brought before Parliament—the abuses still continue in all their grossness. Not only do these legal instrumentalities resist reforms in themselves, but they hinder reforms in other things. In defending their vested interests the clergy delay the closing of town burial-grounds. As Mr. Lindsay can show, government emigration-agents are checking the use of iron for sailing-vessels. Excise officers prevent improvements in the processes they have to overlook. That organic conservatism which is visible in the daily conduct of all men is an obstacle which in private life self-interest slowly overcomes. The prospect of profit does, in the end, teach farmers that deep draining is good; though it takes long to do this. Manufacturers do, ultimately, learn the most economical speed at which to work their steam-engines; though precedent has long misled them. But in the public service, where there is no self-interest to overcome it, this conservatism exerts its full force; and produces results alike disastrous and absurd. For generations after bookkeeping had become universal the Exchequer accounts were kept by notches cut on sticks. In the estimates for the current

year appears the item, "Trimming the oil-lamps at the Horse-Guards."

Between these law-made agencies and the spontaneously formed ones, who then can hesitate? The one class are slow, stupid, extravagant, unadaptive, corrupt, and obstructive: can any point out in the other, vices that balance these? It is true that trade has its dishonesties, speculation its follies. These are evils inevitably entailed by the existing imperfections of humanity. It is equally true, however, that these imperfections of humanity are shared by State-functionaries; and that being unchecked in them by the same stern discipline, they grow to far worse results. Given a race of men having a certain proclivity to misconduct, and the question is, whether a society of these men shall be so organized that ill-conduct directly brings punishment, or whether it shall be so organized that punishment is but remotely contingent on ill-conduct? Which will be the most healthful community—that in which agents who perform their functions badly, immediately suffer by the withdrawal of public patronage; or that in which such agents can be made to suffer only through an apparatus of meetings, petitions, polling booths, parliamentary divisions, cabinet-councils, and red-tape documents? Is it not an absurdly utopian hope that men will behave better when correction is far removed and uncertain than when it is near at hand and inevitable? Yet this is the hope which most political schemers unconsciously cherish. Listen to their plans, and you find that just what they propose to have done, they assume the appointed agents will do. That functionaries are trustworthy is their first postulate. Doubtless could good officers be ensured, much might be said for officialism; just as despotism would have its advantages could we ensure a good despot.

If, however, we would duly appreciate the contrast

between the artificial modes and the natural modes of achieving social desiderata, we must look not only at the vices of the one but at the virtues of the other. These are many and important. Consider first how immediately every private enterprise is dependent on the need for it; and how impossible it is for it to continue if there be no need. Daily are new trades and new companies established. If they subserve some existing public want, they take root and grow. If they do not, they die of inanition. It needs no agitation, no act of Parliament, to put them down. As with all natural organizations, if there is no function for them no nutriment comes to them, and they dwindle away. Moreover, not only do the new agencies disappear if they are superfluous, but the old ones cease to be when they have done their work. Unlike public instrumentalities—unlike Heralds' Offices, which are maintained for ages after heraldry has lost all value—unlike Ecclesiastical Courts, which continue to flourish for generations after they have become an abomination; these private instrumentalities dissolve when they become needless. A widely ramified coaching-system ceases to exist as soon as a more efficient railway-system comes into being. And not simply does it cease to exist, and to abstract funds, but the materials of which it was made are absorbed and turned to use. Coachmen, guards, and the rest, are employed to profit elsewhere —do not continue for twenty years a burden, like the compensated officials of some abolished department of the State. Consider, again, how necessarily these unordained agencies fit themselves to their work. It is a law of all organized things that efficiency presupposes apprenticeship. Not only is it true that the young merchant must begin by carrying letters to the post, that the way to be a successful innkeeper is to commence as waiter—not only is it true that in the development of the intellect there must come first the per-

ceptions of identity and duality, next of number, and that without these, arithmetic, algebra, and the infinitesimal calculus, remain impracticable; but it is true that there is no part of an organism but begins in some simple form with some insignificant function, and passes to its final stage through successive phases of complexity. Every heart is at first a mere pulsatile sac; every brain begins as a slight enlargement of the spinal cord. This law equally extends to the social organism. An instrumentality that is to work well must not be designed and suddenly put together by legislators, but must grow gradually from a germ; each successive addition must be tried and proved good by experience before another addition is made; and by this tentative process only, can an efficient instrumentality be produced. From a trustworthy man who receives deposits of money, insensibly grows up a vast banking system, with its notes, checks, bills, its complex transactions, and its Clearing-house. Pack-horses, then wagons, then coaches, then steam-carriages on common roads, and, finally, steam-carriages on roads made for them—such has been the slow genesis of our present means of communication. Not a trade in the directory but has formed itself an apparatus of manufacturers, brokers, travellers, and retailers, in so gradual a way that no one can trace the steps. And so with organizations of another order. The Zoological Gardens began as the private collection of a few naturalists. The best working-class school known—that at Price's factory—commenced with half-a-dozen boys sitting among the candle-boxes, after hours, to teach themselves writing with worn-out pens. Mark, too, that as a consequence of their mode of growth, these spontaneously-formed agencies expand to any extent required. The same stimulus which brought them into being makes them send their ramifications wherever they are needed. But supply does not thus

readily follow demand in governmental agencies. Appoint a board and a staff, fix their duties, and let the apparatus have a generation or two to consolidate, and you cannot get it to fulfil larger requirements without some act of parliament obtained only after long delay and difficulty.

Were there space, much more might be said upon the superiority of what naturalists would call the *exogenous* order of institutions over the *endogenous* one. But, from the point of view indicated, the further contrasts between their characteristics will be sufficiently visible.

Hence then the fact, that while the one order of means is ever failing, making worse, or producing more evils than it cures, the other order of means is ever succeeding, ever improving. Strong as it looks at the outset, State-agency perpetually disappoints every one. Puny as are its first stages, private effort daily achieves results that astound the world. It is not only that joint-stock companies do so much—it is not only that by them a whole kingdom is covered with railways in the same time that it takes the Admiralty to build a hundred-gun ship; but it is that public instrumentalities are outdone even by individuals. The often quoted contrast between the Academy whose forty members took fifty-six years to compile the French Dictionary, while Dr. Johnson alone compiled the English one in eight—a contrast still marked enough after making due set-off for the difference in the works—is by no means without parallel. That great sanitary desideratum—the bringing of the New River to London—which the wealthiest corporation in the world attempted and failed, Sir Hugh Myddleton achieved single-handed. The first canal in England—a work of which government might have been thought the fit projector, and the only competent executor—was undertaken and finished as the private speculation of one man—the Duke

of Bridgewater. By his own unaided exertions, William Smith completed that great achievement, the geological map of Great Britain; meanwhile, the Ordnance Survey—a very accurate and elaborate one, it is true—has already occupied a large staff for some two generations, and will not be completed before the lapse of another. Howard and the prisons of Europe; Bianconi and Irish travelling; Waghorn and the Overland route; Dargan and the Dublin Exhibition—do not these suggest startling contrasts? While private gentlemen like Mr. Denison build model lodging-houses in which the deaths are greatly below the average, the State builds barracks in which the deaths are greatly above the average, even of the much-pitied town populations; barracks which, though filled with picked men under medical supervision, show an annual mortality per thousand of 13.6, 17.9 and even 20.4; though among civilians of the same age in the same places, the mortality per thousand is but 11.9. While the State has laid out large sums at Parkhurst in the effort to reform juvenile criminals, who are *not* reformed, Mr. Ellis takes fifteen of the worst young thieves in London —thieves considered by the police irreclaimable—and reforms them all. Side by side with the Emigration Board, under whose management hundreds die of fever from close packing, and under whose licence sail vessels which, like the *Washington*, are the homes of fraud, brutality, tyranny, and obscenity, stands Mrs. Chisholm's Family Colonization Loan Society, which does not provide worse accommodation than ever before but much better; which does not demoralize by promiscuous crowding but improves by mild discipline; which does not pauperize by charity but encourages providence; which does not increase our taxes, but is self-supporting. Here are lessons for the lovers of legislation. The State outdone by a working shoemaker! The State beaten by a woman!

Stronger still becomes this contrast between the results of public action and private action, when we remember that the one is constantly eked out by the other, even in doing the things unavoidably left to it. Passing over military and naval departments, in which much is done by contractors and not by men receiving government pay,—passing over the Church, which is constantly extended not by law but by voluntary effort —passing over the Universities, where the efficient teaching is given not by the appointed officers but by private tutors; let us look at the mode in which our judicial system is worked. Lawyers perpetually tell us that codification is impossible; and some are simple enough to believe them. Merely remarking, in passing, that what government and all its employés cannot do for the Acts of Parliament in general, was done for the 1,500 Customs acts in 1825 by the energy of one man —Mr. Deacon Hume—let us see how the absence of a digested system of law is made good. In preparing themselves for the bar, and finally the bench, law-students, by years of research, have to gain an acquaintance with this vast mass of unorganized legislation; and that organization which it is held impossible for the State to effect, it is held possible (sly sarcasm on the State!) for each student to effect for himself. Every judge can privately codify, though "united wisdom" cannot. But how is each judge enabled to codify? By the private enterprise of men who have prepared the way for him; by the partial codifications of Blackstone, Coke, and others; by the digests of Partnership Law, Bankruptcy Law, Law of Patents, Laws affecting Women, and the rest that daily issue from the press; by abstracts of cases, and volumes of reports—every one of them unofficial products. Sweep away all these fractional codifications made by individuals, and the State would be in utter ignorance of its own laws! Had not the bunglings of legislators

been made good by private enterprise, the administration of justice would have been impossible!

Where, then, is the warrant for the constantly proposed extensions of legislative action? If, as we have seen in a large class of cases, government measures do not remedy the evils they aim at; if, in another large class, they make these evils worse instead of remedying them; and if, in a third large class, while curing some evils they entail others, and often greater ones—if, as we lately saw, public action is continually outdone in efficiency by private action; and if, as just shown, private action is obliged to make up for the shortcomings of public action, even in fulfilling the vital functions of the State; what reason is there for wishing more public administrations? The advocates of such may claim credit for philanthropy, but not for wisdom; unless wisdom is shown by disregarding experience.

"Much of this argument is beside the question," will rejoin our opponents. "The true point at issue is, not whether individuals and companies outdo the State when they come in competition with it, but whether there are not certain social wants which the State alone can satisfy. Admitting that private enterprise does much, and does it well, it is nevertheless true that we have daily thrust upon our notice many desiderata which it has not achieved, and is not achieving. In these cases its incompetency is obvious; and in these cases, therefore, it behooves the State to make up for its deficiencies: doing this, if not well, yet as well as it can."

Not to fall back upon the many experiences already quoted, showing that the State is likely to do more harm than good in attempting this; nor to dwell upon the fact that, in most of the alleged cases, the apparent insufficiency of private enterprise is a *result* of previous State-interferences, as may be conclusively

shown; let us deal with the proposition on its own terms. Though there would have been no need for a Mercantile Marine Act to prevent the unseaworthiness of ships and the ill-treatment of sailors, had there been no Navigation Laws to produce these; and though were all like cases of evils and shortcomings directly or indirectly produced by law, taken out of the category, there would probably remain but small basis for the plea above put; yet let it be granted that, every artificial obstacle having been removed, there would still remain many desiderata unachieved, which there was no seeing how spontaneous effort could achieve. Let all this, we say, be granted; the propriety of legislative action may yet be rightly questioned.

For the said plea involves the unwarrantable assumption that social agencies will continue to work only as they are now working; and will produce no results but those they seem likely to produce. It is the habit of this school of thinkers to make a limited human intelligence the measure of phenomena which it requires omniscience to grasp. That which it does not see the way to, it does not believe will take place. Though society has, generation after generation, been growing to developments which none foresaw, yet there is no practical belief in unforeseen developments in the future. The parliamentary debates constitute an elaborate balancing of probabilities, having for data things as they are. Meanwhile every day adds new elements to things as they are, and seemingly improbable results constantly occur. Who, a few years ago, expected that a Leicester-square refugee would shortly become Emperor of the French? Who looked for free trade from a landlords' ministry? Who dreamed that Irish overpopulation would spontaneously cure itself, as it is now doing? So far from social changes arising in likely ways, they usually arise in ways which, to common sense, appear unlikely. A barber's shop was not

a probable-looking place for the germination of the cotton manufacture. No one supposed that important agricultural improvements would come from a Leadenhall-street tradesman. A farmer would have been the last man thought of to bring to bear the screw propulsion of steamships. The invention of a new species of architecture we should have hoped from any one rather than a gardener. Yet while the most unexpected changes are daily wrought out in the strangest ways, legislation daily assumes that things will go just as human foresight thinks they will go. Though by the trite exclamation—"What would our forefathers have said!" there is a frequent acknowledgment of the fact that wonderful results have been achieved in modes wholly unforeseen, yet there seems no belief that this will be again. Would it not be wise to admit such a probability into our politics? May we not rationally infer that, as in the past so in the future?

This strong faith in State-agencies is, however, accompanied by so weak a faith in natural agencies (the two being antagonistic), that, in spite of past experience, it will by many be thought absurd to rest in the conviction that existing social needs will be spontaneously met, though we cannot say how they will be met. Nevertheless, illustrations exactly to the point are now transpiring before their eyes. Instance the scarcely credible phenomenon lately witnessed in the midland counties. Every one has heard of the distress of the stockingers—a chronic evil of some generation or two's standing. Repeated petitions have prayed Parliament for remedy; and legislation has made attempts, but without success. The disease seemed incurable. Two or three years since, however, the circular knitting machine was introduced—a machine immensely outstripping the old stocking-frame in productiveness, but which can make only the legs of stockings, not the feet. Doubtless, the Leicester and Nottingham artisans

regarded this new engine with alarm, as likely to intensify their miseries. On the contrary, it has wholly removed them. By cheapening production it has so enormously increased consumption, that the old stocking-frames, which were before too many by half for the work to be done, are now all employed in putting feet to the legs which the new machines make. How insane would he have been thought who anticipated cure from such a cause! If from the unforeseen removal of evils we turn to the unforeseen achievement of desiderata, we find like cases. No one recognized in Oersted's electro-magnetic discovery the germ of a new agency for the catching of criminals and the facilitation of commerce. No one expected railways to become agents for the diffusion of cheap literature, as they now are. No one supposed when the Society of Arts was planning an international exhibition of manufacturers in Hyde Park, that the result would be a place for popular recreation and culture at Sydenham.

But there is yet a deeper reply to the appeals of impatient philanthropists. It is not simply that social vitality may be trusted by-and-by to fulfil each much-exaggerated requirement in some quiet spontaneous way—it is not simply that when thus naturally fulfilled it will be fulfilled efficiently, instead of being botched as when attempted artificially; but it is that until thus naturally fulfilled it ought not to be fulfilled at all. A startling paradox, this, to many; but one quite justifiable, as we hope shortly to show.

It was pointed out some distance back, that the force which produces and sets in motion every social mechanism—governmental, mercantile, or other—is some accumulation of personal desires. As there is no individual action without a desire, so, it was urged, there can be no social action without an aggregate of desires. To which there here remains to add, that as it is a general law of the individual that the intenser

desires—those corresponding to all-essential functions —are satisfied first, and if need be to the neglect of the weaker and less important ones; so, it must be a general law of society that the chief requisites of social life—those necessary to popular existence and multiplication—will, in the natural order of things, be subserved before those of a less pressing kind. As the private man first ensures himself food; then clothing and shelter; these being secured, takes a wife; and, if he can afford it, presently supplies himself with carpeted rooms, and piano, and wines, hires servants and gives dinner parties; so, in the evolution of society, we see first a combination for defence against enemies, and for the better pursuit of game; by-and-by come such political arrangements as are needed to maintain this combination; afterwards, under a demand for more food, more clothes, more houses, arises division of labor; and when satisfaction of the animal wants has been provided for, there slowly grow up literature, science, and the arts. Is it not obvious that these successive evolutions occur in the order of their importance? Is it not obvious, that, being each of them produced by an aggregate of desires, they *must* occur in the order of their importance, if it be a law of the individual that the strongest desires correspond to the most needful actions? Is it not, indeed, obvious that the order of relative importance will be more uniformly followed in social action than in individual action; seeing that the personal idiosyncrasies which disturb that order in the latter case are *averaged* in the former? If any one does not see this, let him take up a book describing life at the gold-diggings. There he will find the whole process exhibited in little. He will read that as the diggers must eat, they are compelled to offer such prices for food that it pays better to keep a store than to dig. As the store-keepers must get supplies, they give enormous sums for carriage from the nearest town;

and some men, quickly seeing they can get rich at that, make it their business. This brings drays and horses into demand; the high rates draw these from all quarters; and, after them, wheelwrights and harness-makers. Blacksmiths to sharpen pickaxes, doctors to cure fevers, get pay exorbitant in proportion to the need for them; and are so brought flocking in proportionate numbers. Presently commodities become scarce; more must be fetched from abroad; sailors must have increased wages to prevent them from deserting and turning miners; this necessitates higher charges for freight; higher freights quickly bring more ships; and so there rapidly develops an organization for supplying goods from all parts of the world. Every phase of this evolution takes place in the order of its necessity; or as we say—in the order of the intensity of the desires subserved. Each man does that which he finds pays best; that which pays best is that for which other men will give most; that for which they will give most is that which, under the circumstances, they most desire. Hence the succession must be throughout from the more important to the less important. A requirement which at any period remains unfulfilled, must be one for the fulfilment of which men will not pay so much as to make it worth any one's while to fulfil it—must be a *less* requirement than all the others for the fulfilment of which they will pay more; and must wait until other more needful things are done. Well, is it not clear that the same law holds good in every community? Is it not true of the latter phases of social evolution, as of the earlier, that when things are let alone the smaller desiderata will be postponed to the greater?

Hence, then, the justification of the seeming paradox, that until spontaneously fulfilled a public want should not be fulfilled at all. It must, on the average, result in our complex state, as in simpler ones, that the

thing left undone is a thing by doing which citizens cannot gain so much as by doing other things—is therefore a thing which society does not want done so much as it wants these other things done; and the corollary is, that to effect a neglected thing by artificially employing citizens to do it, is to leave undone some more important thing which they would have been doing—is to sacrifice the greater requisite to the smaller.

"But," it will perhaps be objected, "if the things done by a government, or at least by a representative government, are also done in obedience to some aggregate desire, why may we not look for this normal subordination of the more needful to the less needful in them too?" The reply is, that though they have a certain tendency to follow this order—though those primal desires for public defence and personal protection, out of which government originates, were satisfied through its instrumentality in proper succession—though, possibly, some other early and simple requirements may have been so too; yet, when the desires are not few, universal and intense, but, like those remaining to be satisfied in the latter stages of civilization, numerous, partial, and moderate, the judgment of a government is no longer to be trusted. To select out of an immense number of minor wants, physical, intellectual, and moral, felt in different degrees by different classes, and by a total mass varying in every case, the want that is most pressing, is a task which no legislature can accomplish. No man or men by inspecting society can *see* what it most needs; society must be left to *feel* what it most needs. The mode of solution must be experimental, not theoretical. When left, day after day, to experience evils and dissatisfactions of various kinds, affecting them in various degrees, citizens gradually acquire repugnance to these proportionate to their greatness, and corresponding desires to get rid of them,

which by spontaneously fostering remedial agencies are likely to end in the worst inconvenience being first removed. And however irregular this process may be (and we admit that men's habits and prejudices produce many anomalies, or seeming anomalies, in it) it is a process far more trustworthy than are legislative judgments. For those who question this there are instances; and, that the parallel may be the more conclusive, we will take a case in which the ruling power is deemed specially fit to decide. We refer to our means of communication.

Do those who maintain that railways would have been better laid out and constructed by government, hold that the order of importance would have been as uniformly followed as it has been by private enterprise? Under the stimulus of an enormous traffic—a traffic too great for the then existing means—the first line sprung up between Liverpool and Manchester. Next came the Grand Junction and the London and Birmingham (now merged in the London and North Western); afterwards the Great Western, the South Western, the South Eastern, the Eastern Counties, the Midland. Since then subsidiary lines and branches have occupied our capitalists. As they were quite certain to do, companies made first the most needed, and therefore the best paying, lines; under the same impulse that a laborer chooses high wages in preference to low. That government would have adopted a better order can hardly be, for the best has been followed; but that it would have adopted a worse, all the evidence we have goes to show. In default of materials for a direct parallel, we might cite from India and the colonies, cases of injudicious road-making. Or, as exemplifying State-efforts to facilitate communication, we might dwell on the fact that while our rulers have sacrificed hundreds of lives and spent untold treasure in seeking a North-west passage, which would be useless if found,

they have left the exploration of the Isthmus of Panama, and the making railways and canals through it, to private companies. But, not to make much of this indirect evidence, we will content ourselves with the one sample of a State-made channel for commerce, which we have at home—the Caledonian Canal. Up to the present time (1853), this public work has cost upwards of 1,100,000*l.* It has now been open for many years, and salaried emissaries have been constantly employed to get traffic for it. The results, as given in its forty-seventh annual report, issued in 1852, are —receipts during the year, 7,909*l.*; expenditure ditto, 9,261*l.*; loss, 1,352*l.* Has any such large investment been made with such a pitiful result by a private canal company?

And if a government is so bad a judge of the relative importance of social requirements, when these requirements are *of the same kind*, how worthless a judge must it be when they are of different kinds. If, where a fair share of intelligence might be expected to lead them right, legislators and their officers go so wrong, how terribly will they err where no amount of intelligence would suffice them,—where they must decide among hosts of needs, bodily, intellectual, and moral, which admit of no direct comparisons; and how disastrous must be the results if they act out their erroneous decisions. Should any one need this bringing home to him by an illustration, let him read the following extract from the last of the series of letters some time since published in the *Morning Chronicle*, on the state of agriculture in France. After expressing the opinion that French farming is some century behind English farming, the writer goes on to say:—

"There are two causes principally chargeable with this. In the first place, strange as it may seem in a country in which two-thirds of the population are agri-

culturists, agriculture is a very unhonored occupation. Develop in the slightest degree a Frenchman's mental faculties, and he flies to a town as surely as steel filings fly to a loadstone. He has no rural tastes, no delight in rural habits. A French amateur farmer would indeed be a sight to see. Again, this national tendency is directly encouraged by the centralizing system of government—by the multitude of officials, and by the payment of all functionaries. From all parts of France, men of great energy and resource struggle up, and fling themselves on the world of Paris. There they try to become great functionaries. Through every department of the eighty-four, men of less energy and resource struggle up to the *chef-lieu*—the provincial capital. There they try to become little functionaries. Go still lower—deal with a still smaller scale—and the result will be the same. As is the department to France, so is the arrondissement to the department, and the commune to the arrondissement. All who have, or think they have, heads on their shoulders, struggle into towns to fight for office. All who are, or are deemed by themselves or others, too stupid for anything else, are left at home to till the fields, and breed the cattle, and prune the vines, as their ancestors did for generations before them. Thus there is actually no intelligence left in the country. The whole energy, and knowledge, and resource of the land are barreled up in the towns. You leave one city, and in many cases you will not meet an educated or cultivated individual until you arrive at another—all between is utter intellectual barrenness." —*Morning Chronicle.* August, 1851.

To what end now is this constant abstraction of able men from rural districts? To the end that there may be enough functionaries to achieve those many desiderata which French governments have thought ought to be achieved—to provide amusements, to manage

mines, to construct roads and bridges, to erect numerous buildings—to print books, encourage the fine arts, control this trade, and inspect that manufacture —to do all the hundred-and-one things which the State does in France. That the army of officers needed for this may be maintained, agriculture must go unofficered. That certain social conveniences may be better secured, the chief social necessity is neglected. The very basis of the national life is sapped, to gain a few non-essential advantages. Said we not truly, then, that until a requirement is spontaneously fulfilled, it should not be fulfilled at all?

And here indeed we may recognize the close kinship between the fundamental fallacy involved in these State-meddlings and the fallacy lately exploded by the free-trade agitation. These various law-made instrumentalities for effecting ends which might otherwise not yet be effected, all embody a subtler form of the protectionist hypothesis. The same short-sightedness which, looking at commerce, prescribed bounties and restrictions, looking at social affairs in general, prescribes these multiplied administrations; and the same criticism applies alike to all its proceedings.

For was not the error that vitiated every law aiming at the artificial maintenance of a trade, substantially that which we have just been dwelling upon; namely, this overlooking of the fact that, in setting people to do one thing, some other thing is inevitably left undone? The statesmen who thought it wise to protect home-made silks against French silks, did so under the impression that the manufacture thus secured constituted a pure gain to the nation. They did not reflect that the men employed in this manufacture would otherwise have been producing something else—a something else which, as they could produce it without legal help, they could more profitably produce. Landlords

who have been so anxious to prevent foreign wheat from displacing their own wheat, have never duly realized the fact that if their fields would not yield wheat so economically as to prevent the feared displacement, it simply proved that they were growing unfit crops in place of fit crops; and so working their land at a relative loss. In all cases where, by restrictive duties, a trade has been upheld that would otherwise not have existed, capital has been turned into a channel less productive than some other into which it would naturally have flowed. And so, to pursue certain State-patronized occupations, men have been drawn from more advantageous occupations.

Clearly then, as above alleged, the same oversight runs through all these interferences; be they with commerce, or be they with other things. In employing people to achieve this or that desideratum, legislators have not perceived that they were thereby preventing the achievement of some other desideratum. They have habitually assumed that each proposed good would, if secured, be a pure good, instead of being a good purchasable only by submission to some evil which would else have been remedied; and, making this error, have injuriously diverted men's labor. As in trade, so in other things, labor will spontaneously find out, better than any government can find out for it, the things on which it may best expend itself. Rightly regarded, the two propositions are identical. This division into commercial and non-commercial affairs is quite a superficial one. All the actions going on in society come under the generalization—human effort ministering to human desire. Whether the ministration be effected through a process of buying and selling, or whether in any other way, matters not so far as the general law of it is concerned. In all cases it must be true that the stronger desires will get themselves satisfied before the weaker ones; and in all cases it must be true that

to get satisfaction for the weaker ones before they would naturally have it, is to deny satisfaction to the stronger ones.

To the immense positive evils entailed by over-legislation have to be added the equally great negative evils —evils which, notwithstanding their greatness, are scarcely at all recognized, even by the far-seeing. While the State does those things which it ought not to do, *as an inevitable consequence*, it leaves undone those things which it ought to do. Time and activity being limited, it necessarily follows that legislators' sins of *commission* entail sins of *omission*. Mischievous meddling involves disastrous neglect; and until statesmen are ubiquitous and omnipotent, must ever do so. In the very nature of things an agency employed for two purposes must fulfil both imperfectly; partly because, while fulfilling the one it cannot be fulfilling the other, and partly because its adaptation to both ends implies incomplete fitness for either. As has been well said *à propos* of this point,—"A blade which is designed both to shave and to carve, will certainly not shave so well as a razor or carve so well as a carving-knife. An academy of painting, which should also be a bank, would in all probability exhibit very bad pictures and discount very bad bills. A gas company, which should also be an infant-school society, would, we apprehend, light the streets ill, and teach the children ill." And if an institution undertakes, not two functions but a score—if a government, whose office it is to defend citizens against aggressors, foreign and domestic, engages also to disseminate Christianity, to administer charity, to teach children their lessons, to adjust prices of food, to inspect coal-mines, to regulate railways, to superintend house-building, to arrange cab-fares, to look into people's stink-traps, to vaccinate their children, to send out emigrants, to prescribe hours of labor, to

examine lodging-houses, to test the knowledge of mercantile captains, to provide public libraries, to read and authorize dramas, to inspect passenger-ships, to see that small dwellings are supplied with water, to regulate endless things from a banker's issues down to the boat-fares on the Serpentine—is it not manifest that its primary duty must be ill-discharged in proportion to the multiplicity of affairs it busies itself with? Must not its time and energies be frittered away in schemes, and inquiries, and amendments, in discussions, and divisions, to the neglect of its essential business? And does not a glance over the debates make it clear that this is the fact? and that, while parliament and public are alike occupied with these mischievous interferences, these utopian hopes, the one thing needful is left almost undone?

See here, then, the proximate cause of our legal abominations. We drop the substance in our efforts to catch shadows. While our firesides, and clubs, and taverns are filled with talk about corn-law questions, and church questions, and education questions, and poor-law questions—all of them raised by over-legislation—the justice question gets scarcely any attention; and we daily submit to be oppressed, cheated, robbed. This institution which should succor the man who has fallen among thieves, turns him over to solicitors, barristers, and a legion of law-officers; drains his purse for writs, briefs, affidavits, subpœnas, fees of all kinds and expenses innumerable; involves him in the intricacies of common courts, chancery courts, suits, countersuits, and appeals; and often ruins where it should aid. Meanwhile, meetings are called, and leading articles written, and votes asked, and societies formed, and agitations carried on, not to rectify these gigantic evils, but partly to abolish our ancestors' mischievous meddlings and partly to establish meddlings of our own. Is it not obvious that this fatal neglect is a result of

this mistaken officiousness? Suppose that external and internal protection had been the sole recognized functions of the ruling powers. Is it conceivable that our administration of justice would have been as corrupt as now? Can any one believe that had parliamentary elections been habitually contested on questions of legal reform, our judicial system would still have been what Sir John Romilly calls it,—"a technical system invented for the creation of costs"? Does any one suppose that, if the efficient defence of person and property had been the constant subject-matter of hustings pledges, we should yet be waylaid by a Chancery Court which has now more than two hundred millions of property in its clutches—which keeps suits pending fifty years, until all the funds are gone in fees—which swallows in costs two millions annually? Dare any one assert that had constituencies been always canvassed on principles of law-reform versus law-conservatism, Ecclesiastical Courts would have continued for centuries fattening on the goods of widows and orphans? The questions are next to absurd. A child may see that with the general knowledge people have of legal corruptions and the universal detestation of legal atrocities, an end would long since have been put to them, had the administration of justice always been *the* political topic. Had not the public mind been constantly pre-occupied, it could never have been tolerated that a man neglecting to file an answer to a bill in due course, should be imprisoned fifteen years for contempt of court, as Mr. James Taylor was. It would have been impossible that, on the abolition of their sinecures, the sworn-clerks should have been compensated by the continuance of their exorbitant incomes, not only till death, but for seven years after, at a total estimated cost of £700,000. Were the State confined to its defensive and judicial functions, not only the people but legislators themselves would

agitate against abuses. The sphere of activity and the opportunities for distinction being narrowed, all the thought, and industry, and eloquence which members of Parliament now expend on impracticable schemes and artificial grievances, would be expended in rendering justice pure, certain, prompt, and cheap. The complicated follies of our legal verbiage, which the uninitiated cannot understand and which the initiated interpret in various senses, would be quickly put an end to. We should no longer frequently hear of Acts of Parliament so bunglingly drawn up that it requires half a dozen actions and judges' decisions under them, before even lawyers can say how they apply. There would be no such stupidly-designed measures as the Railway Winding-up Act, which, though passed in 1846 to close the accounts of the bubble schemes of the mania, leaves them still unsettled in 1854—which, even with funds in hand, withholds payment from creditors whose claims have been years since admitted. Lawyers would no longer be suffered to maintain and to complicate the present absurd system of land titles, which, besides the litigation and loss it perpetually causes, lowers the value of estates, prevents the ready application of capital to them, checks the development of agriculture, and thus hinders the improvement of the peasantry and the prosperity of the country. In short, the corruptions, follies, and terrors of law would cease; and that which men now shrink from as an enemy they would come to regard as what it purports to be —a friend.

How vast then is the negative evil which, in addition to the positive evils before enumerated, this meddling policy entails on us! How many are the grievances men bear, from which they would otherwise be free! Who is there that has not submitted to injuries rather than run the risk of heavy law-costs? Who is there that has not abandoned just claims rather than "throw

good money after bad"? Who is there that has not paid unjust demands rather than withstand the threat of an action? This man can point to property that has been alienated from his family from lack of funds or courage to fight for it. That man can name several relations ruined by a law-suit. Here is a lawyer who has grown rich on the hard earnings of the needy and the savings of the oppressed. There is a once wealthy trader who has been brought by legal iniquities to the workhouse or the lunatic asylum. The badness of our judicial system vitiates our whole social life: renders almost every family poorer than it would otherwise be; hampers almost every business transaction; inflicts daily anxieties on every trader. And all this loss of property, time, temper, comfort, men quietly submit to from being absorbed in the pursuit of schemes which eventually bring on them other mischiefs.

Nay, the case is even worse. It is distinctly provable that many of these evils about which outcries are raised, and to cure which special Acts of Parliament are loudly invoked, are themselves *produced* by our disgraceful judicial system. For example, it is well known that the horrors out of which our sanitary agitators make political capital, are found in their greatest intensity on properties that have been for a generation in Chancery—are distinctly traceable to the ruin thus brought about; and would never have existed but for the infamous corruptions of law. Again, it has been shown that the long-drawn miseries of Ireland, which have been the subject of endless legislation, have been mainly produced by inequitable land-tenure and the complicated system of entail: a system which wrought such involvements as to prevent sales; which practically negatived all improvement; which brought landlords to the workhouse; and which required an Incumbered Estates Act to cut its gordian knots and render the proper cultivation of the soil pos-

sible. Judicial negligence, too, is the main cause of railway accidents. If the State would fulfil its true function, by giving passengers an easy remedy for breach of contract when trains are behind time, it would do more to prevent accidents than can be done by the minutest inspection or the most cunningly-devised regulations; for it is notorious that the majority of accidents are primarily caused by irregularity. In the case of bad house-building, also, it is obvious that a cheap, rigorous, and certain administration of justice, would make Building Acts needless. For is not the man who erects a house of bad materials ill put together, and, concealing these with papering and plaster, sells it as a substantial dwelling, guilty of fraud? And should not the law recognize this fraud as it does in the analogous case of an unsound horse? And if the legal remedy were easy, prompt, and sure, would not builders cease transgressing? So is it in other cases the evils which men perpetually call on the State to cure by superintendence, themselves arise from non-performance of its original duty.

See then how this vicious policy complicates itself. Not only does meddling legislation fail to cure the evils it aims at; not only does it make many evils worse; not only does it create new evils greater than the old; but while doing this it entails on men the oppressions, robberies, ruin, which flow from the non-administration of justice. And not only to the positive evils does it add this vast negative one, but this again, by fostering many social abuses that would not else exist, furnishes occasions for more meddlings which again act and re-act in the same way. And thus as ever, "things bad begun make strong themselves by ill."

After assigning reasons thus fundamental, for condemning all State-action save that which universal ex-

perience has proved to be absolutely needful, it would seem superfluous to assign subordinate ones. Were it called for, we might, taking for text Mr. Lindsay's work on *Navigation and Mercantile Marine Law*, say much upon the complexity to which this process of adding regulation to regulation—each necessitated by foregoing ones—ultimately leads: a complexity which, by the misunderstandings, delays, and disputes it entails, greatly hampers our social life. Something, too, might be added upon the perturbing effects of that "gross delusion," as M. Guizot calls it, "a belief in the sovereign power of political machinery"—a delusion to which he partly ascribes the late revolution in France; and a delusion which is fostered by every new interference. But, passing over these, we would dwell for a short space upon the national enervation which this State-superintendence produces.

The enthusiastic philanthropist, urgent for some act of parliament to remedy this evil or secure the other good, thinks it a trivial and far-fetched objection that the people will be morally injured by doing things for them instead of leaving them to do things themselves. He vividly conceives the benefit he hopes to get achieved, which is a positive and readily imaginable thing. He does not conceive the diffused, invisible, and slowly-accumulating effect wrought on the popular mind, and so does not believe in it; or, if he admits it, thinks it beneath consideration. Would he but remember, however, that all national character is gradually produced by the daily action of circumstances, of which each day's result seems so insignificant as not to be worth mentioning, he would perceive that what is trifling when viewed in its increments may be formidable when viewed in its total. Or if he would go into the nursery, and watch how repeated actions—each of them apparently unimportant,—create, in the end, a habit which will affect the whole future life; he would be reminded

that every influence brought to bear on human nature tells, and, if continued, tells seriously. The thoughtless mother who hourly yields to the requests—"Mamma, tie my pinafore," "Mamma, button my shoe," and the like, cannot be persuaded that each of these concessions is detrimental; but the wiser spectator sees that if this policy be long pursued, and be extended to other things, it will end in inaptitude. The teacher of the old school who showed his pupil the way out of every difficulty, did not perceive that he was generating an attitude of mind greatly militating against success in life. The modern teacher, however, induces his pupil to solve his difficulties himself; believes that in so doing he is preparing him to meet the difficulties which, when he goes into the world, there will be no one to help him through; and finds confirmation for this belief in the fact that a great proportion of the most successful men are self-made. Well, is it not obvious that this relationship between discipline and success holds good nationally? Are not nations made of men; and are not men subject to the same laws of modification in their adult years as in their early years? Is it not true of the drunkard, that each carouse adds a thread to his bonds? of the trader, that each acquisition strengthens the wish for acquisitions? of the pauper, that the more you assist him the more he wants? of the busy man, that the more he has to do the more he can do? And does it not follow that if every individual is subject to this process of adaptation to conditions, a whole nation must be so—that just in proportion as its members are little helped by extraneous power they will become self-helping, and in proportion as they are much helped they will become helpless? What folly is it to ignore these results because they are not direct, and not immediately visible. Though slowly wrought out they are inevitable. We can no more elude the laws of human development than we can elude the law of gravi-

tation; and so long as they hold true must these effects occur.

If we are asked in what special directions this alleged helplessness, entailed by much State-superintendence, shows itself, we reply that it is seen in a retardation of all social growths requiring self-confidence in the people—in a timidity that fears all difficulties not before encountered—in a thoughtless contentment with things as they are. Let any one, after duly watching the rapid evolution going on in England, where men have been comparatively little helped by governments—or better still, after contemplating the unparalleled progress of the United States, which is peopled by self-made men, and the recent descendants of self-made men;—let such an one, we say, go on to the Continent, and consider the relatively slow advance which things are there making; and the still slower advance they would make but for English enterprise. Let him go to Holland, and see that though the Dutch early showed themselves good mechanics, and have had abundant practice in hydraulics, Amsterdam has been without any due supply of water until now that works are being established by an English company. Let him go to Berlin, and there be told that, to give that city a water-supply such as London has had for generations, the project of an English firm is about to be executed by English capital, under English superintendence. Let him go to Vienna, and learn that it, in common with other continental cities, is lighted by an English gas-company. Let him go on the Rhone, on the Loire, on the Danube, and discover that Englishmen established steam navigation on those rivers. Let him inquire concerning the railways in Italy, Spain, France, Sweden, Denmark, how many of them are English projects, how many have been largely helped by English capital, how many have been executed by English contractors, how many have had English en-

gineers. Let him discover, too, as he will, that where railways have been government-made, as in Russia, the energy, the perseverance, and the practical talent developed in England and the United States have been called in to aid. And then if these illustrations of the progressiveness of a self-dependent race, and the torpidity of paternally-governed ones, do not suffice him, he may read Mr. Laing's successive volumes of European travel, and there study the contrast in detail. What, now, is the cause of this contrast? In the order of nature, a capacity for self-help must in every case have been brought into existence by the practice of self-help; and, other things equal, a lack of this capacity must in every case have arisen from the lack of demand for it. Do not these two antecedents and their two consequents agree with the facts as presented in England and Europe? Were not the inhabitants of the two, some centuries ago, much upon a par in point of enterprise? Were not the English even behind in their manufactures, in their colonization, in their commerce? Has not the immense relative change the English have undergone in this respect, been coincident with the great relative self-dependence they have been since habituated to? And has not the one been caused by the other? Whoever doubts it, is asked to assign a more probable cause. Whoever admits it, must admit that the enervation of a people by perpetual State-aids is not a trifling consideration, but the most weighty consideration. A general arrest of national growth he will see to be an evil greater than any special benefits can compensate for. And, indeed, when, after contemplating this great fact, the overspreading of the Earth by the English, he remarks the absence of any parallel achievement by a continental race—when he reflects how this difference must depend chiefly on difference of character, and how such difference of character has been mainly produced by difference of

discipline; he will perceive that the policy pursued in this matter may have a large share in determining a nation's ultimate fate.

We are not sanguine, however, that argument will change the convictions of those who put their trust in legislation. With men of a certain order of thought the foregoing reasons will have weight. With men of another order of thought they will have little or none; nor would any accumulation of such reasons affect them. The truth that experience teaches has its limits. The experiences which teach must be experiences which can be appreciated; and experiences exceeding a certain degree of complexity become inappreciable to the majority. It is thus with most social phenomena. If we remember that for these two thousand years and more, mankind have been making regulations for commerce, which have all along been strangling some trades and killing others with kindness, and that though the proofs of this have been constantly before their eyes, they have only just discovered that they have been uniformly doing mischief—if we remember that even now only a small portion of them see this; we are taught that perpetually-repeated and ever-accumulating experiences will fail to teach, until there exist the mental conditions required for the assimilation of them. Nay, when they are assimilated, it is very imperfectly. The truth they teach is only half understood, even by those supposed to understand it best. For example, Sir Robert Peel, in one of his last speeches, after describing the immensely increased consumption consequent on free trade, goes on to say:—

"If, then, you can only continue that consumption—if, *by your legislation*, under the favor of Providence, *you can maintain the demand for labor and make your trade and manufactures prosperous*, you are not only

increasing the sum of human happiness, but are giving the agriculturists of this country the best chance of that increased demand which must contribute to their welfare."—*Times*, Feb. 22, 1850.

Thus the prosperity really due to the abandonment of all legislation, is ascribed to a particular kind of legislation. "*You* can maintain the demand," he says; "*you* can make trade and manufactures prosperous;" whereas, the facts he quotes prove that they can do this only by doing nothing. The essential truth of the matter—that law had been doing immense harm, and that this prosperity resulted not from law but from the absence of law—is missed; and his faith in legislation in general, which should, by this experience, have been greatly shaken, seemingly remains as strong as ever. Here, again, is the House of Lords, apparently not yet believing in the relationship of supply and demand, adopting within these few weeks the standing order—

"That before the first reading of any bill for making any work in the construction of which compulsory power is sought to take thirty houses or more inhabited by the laboring classes in any one parish or place, the promoters be required to deposit in the office of the clerk of the parliaments a statement of the number, description, and situation of the said houses, the number (so far as they can be estimated) of persons to be displaced, *and whether any and what provision is made in the bill for remedying the inconvenience likely to arise from such displacements.*"

If, then, in the comparatively simple relationships of trade, the teachings of experience remain for so many ages unperceived, and are so imperfectly apprehended when they are perceived, it is scarcely to be hoped that

where all social phenomena—moral, intellectual, and physical—are involved, any due appreciation of the truths displayed will presently take place. The facts cannot yet get recognized as facts. As the alchemist attributed his successive disappointments to some disproportion in the ingredients, some impurity, or some too great temperature, and never to the futility of his process or the impossibility of his aim; so, every failure of State-regulations the law-worshipper explains away as being caused by this trifling oversight, or that little mistake: all which oversights and mistakes he assures you will in future be avoided. Eluding the facts as he does after this fashion, volley after volley of them produce no effect.

Indeed this faith in governments is in a certain sense organic; and can diminish only by being outgrown. From the time when rulers were thought demi-gods, there has been a gradual decline in men's estimates of their power. This decline is still in progress, and has still far to go. Doubtless, every increment of evidence furthers it in *some* degree, though not to the degree that at first appears. Only in so far as it modifies character does it produce a permanent effect. For while the mental type remains the same, the removal of a special error is inevitably followed by the growth of other errors of the same genus. All superstitions die hard; and we fear that this belief in government-omnipotence will form no exception.

HERBERT SPENCER'S "FROM FREEDOM TO BONDAGE"

WITH COMMENTS BY

AUGUSTUS P. GARDNER

MR. GARDNER'S COMMENTS

SOCIALISTS do not agree on the definition of Socialism and Individualists do not agree on the definition of Individualism. The fact is that Socialism is a tendency toward one extreme and Individualism is a tendency toward another extreme. The ultimate limit of Socialism is a State in which private property no longer exists and the State doles out supplies to meet man's daily needs. The ultimate limit of Individualism is a State which interferes with no business enterprise whatsoever, where even the Post Office is privately conducted and where taxes are apportioned not according to a man's means or his ability to bear the burden, but in proportion to what the community pays out for his particular benefit. There are few extreme Socialists in the United States and still fewer extreme Individualists.

Most Socialists believe that the State ought to own all capital and all land. In other words, they wish to supersede a system under which too few people own either capital or land with a system under which nobody at all owns either capital or land. At least, that is what the average Socialist philosopher wishes or thinks that he wishes—I doubt whether the average Socialist voter has any such desire. I represent in Congress a district which at times has cast a heavy Socialist vote. The City of Haverhill is in my district. For many years, Haverhill regularly elected a Socialist Mayor. Even now, one of her Representatives in the Massachusetts Legislature is a Socialist. It is my deliberate opinion that the average man who votes the

Socialist ticket in the district which I represent does so because he thinks that he was left out on the last deal and so he wants a new one. That man is no idealist; but he wants his share and he doesn't think he got it when the shares were being handed around.

If the rank and file of the Socialist party really believed that the future holds in store a successful co-operative State, they would clamor for an authoritative statement as to how that State is going to be managed. For instance, they would insist on knowing whether family life is to be interfered with or whether men and women are to be permitted to have as many children as they wish. They would insist on knowing whether the citizens of the Socialist State are to receive equal remuneration or unequal remuneration and, if the latter, who is to have the delicate job of drawing the line. Are the lazy and vicious and incompetent to receive as much as the energetic and steady and resourceful? If so, what will become of the virtues of energy, steadiness and resourcefulness? If not, what will become of the dream of equality? Is the bachelor to receive as much as the father of a big family? If so, how is the father going to contrive to make a single food allowance suffice for a brood? If not, will the bachelors and the men with small families consent to leave family life unregulated by the State?

Lord Salisbury once said of Socialists, "Where they are precise they are not agreed, and where they are agreed they are not precise." To this John Spargo replies in *Socialism*, "It is when we come to the question of the spirit of the economic organization of the future, the methods of direction and management, that the light fails, and we must grope our way into the 'Great Unknown' with imagination and our sense of justice for guides." But the Socialist State is not the "Great Unknown." The last one hundred years have seen nearly one hundred Socialist communities come and

go, to say nothing of the great experiment of the French nation after the revolution of 1848.

If there is one thing about human nature that these experiments in applied Socialism have proved, it is this:—A man will cheerfully die for his country; but he will cheerfully sweat only for himself and his family. If this lesson had not already been taught us by the failure of all the Socialist communities, it could be learned to-day by studying the contrast between the attitude of the Britisher now mining coal or making ammunition at home and the attitude of that same Britisher when transformed into Private Thomas Atkins in a Flanders trench.

Spencer did not write *From Liberty to Bondage* for the purpose of proving Socialism unworkable or immoral or unjust. Other essays of Spencer are designed for that purpose. This essay as much as says to the working-man, "Let us suppose for the sake of argument that you establish a Socialistic State. You will not like it when you get it because your liberty must necessarily be taken away from you."

In America men and women decide for themselves what their walk in life is to be. Under our Individualist system the ambitious boy sees that the widest choice of careers is open to him. Under Socialism the community, not the individual, must decide which boys are to be trained as farmers, which boys are to be trained as butchers, which boys are to be trained as scavengers, which boys are to be trained to work in factories, and which boys are to be trained for the learned professions and the clerical positions.

Imagine if you can the girls of a community when they reach the age for assignment to their life's tasks. Let us suppose the examinations over, the records all made up and the lists published. One little maid finds she is to be trained for menial service, another finds that she is to be trained to work in a factory, a third

finds she is to be trained for the lecture platform. Will those maids upon whom the door of hope has been closed believe that all is for the best in this ideal Socialist world? Will their fathers and their mothers and their sisters and their brothers bow humbly to the great committeemen who made up the record and prepared the examination? Is all this fanciful? I think not.

Study the history of the hundred or more Socialist communities which have been established to prove that a co-operative commonwealth is workable. Ponder the words of Sidney Webb, most far-sighted of English Socialist writers of to-day. He lays it down as a fundamental principle that there must be strict subordination and discipline in the Socialist State and that "no one could or should have the right to ask that he shall be employed at the particular job which suits his particular fancy or taste."

In *From Liberty to Bondage*, Herbert Spencer formulated the doctrine that the growth of the clamor against the world's evils is in direct ratio to their diminution. "A century ago," says Spencer, "when scarcely a man could be found who was not occasionally intoxicated, and when inability to take one or two bottles of wine brought contempt, no agitation arose against the vice of drunkenness." Similarly he pointed out that in the days when the treatment of women was worst the consciousness of that ill treatment seems to have been least. If Spencer had been an American he might have pointed out that evolution, not clamor and not legislation, has discontinued the old New England practice of regaling the company with a barrel of rum on the occasion of raising the frame of a church.

A quarter of a century has elapsed since Spencer wrote. Can any honest observer fail to note that in that quarter century natural forces of evolution have still further enthroned weak women and still further

dethroned strong wine? Yet even the sympathetic ear drum grows numb as the combat deepens for the complete emancipation of the one and the complete subjection of the other.

The point Spencer makes is that the more it becomes evident that the lot of the working man is being ameliorated and that one problem after another is being solved by natural forces, the more insistent becomes the Socialist demand that the whole structure of society shall be torn down and an entirely different one substituted in its place. "As fast as natural causes are shown to be powerful there grows up the belief that they are powerless," to quote the words of this essay.

If Spencer were alive to-day he could not fail to note another phenomenon quite as paradoxical. In this day and generation, when men more than ever before are impatient of restraint, the demand has amazingly increased for a social system which of necessity must curtail their liberty.

Let us consider a few of the many practical experiments in Socialism which have been made in the last one hundred years. Let us see whether such little success as any of them temporarily attained was or was not purchased at the price of liberty.

To impeach successfully the motives or the sincerity of the founders of Socialist communities and the leaders of Socialism is neither profitable nor easy. Men have shown themselves willing to live and die for Socialism. Men have been willing to ruin themselves for Socialism. But then it is well to remember that there have been few creeds so pagan or so mad that they have failed to attract fanatics ready to throw away life and property as lightly as a maiden throws away a withered rose. Socialism is not the only Juggernaut under whose wheels the faithful have gladly prostrated themselves.

Probably this world never saw a more sincere or

self-sacrificing man than William Lane, the Australian who organized the most scientific Socialist community of recent years. The pen with which Herbert Spencer wrote of the "bondage" of Socialism was scarcely dry ere Lane began his preparations for the great experiment destined to prove Spencer right. "New Australia" was the name given to the bountiful tract of land which the Government of Paraguay set aside as a grant for the sturdy Australians who followed William Lane.

Never was a Socialist community founded with a brighter chance of success. At the head a shrewd and honest enthusiast. For the rank and file, a body of colonists of whom the British Foreign Office Report said in 1895 that they were "as fine a set of men and women as it was possible to collect anywhere." Said the Sydney (New South Wales) *Daily Telegraph:* "There is no denying the fact that the New Australia movement is calling from the ranks of Australian labor many of its best and most worthy representatives." A grant from the Paraguayan Government of 350,000 acres which the examiner for the British Legation in Buenos Aires in an official report described as in his opinion "the best land in Paraguay"; a climate remarkably healthy; one hundred thousand dollars capital, of which the leader, William Lane, contributed $5,000, his life savings;—everything was foreseen and all necessities provided—except a change in human nature.

The voyage from Australia was no sooner begun than the inevitable question arose, "Who shall have the pleasant jobs and who the dirty ones?" Who are to be the lucky ones to do secretarial work and who are to be the laundresses for the sixty bachelors on board the ship? Who are to be foremen when the settlement is organized and who are to take orders?

Grahame in his account of "New Australia" says,

"Before sailing it had been arranged that such matters of detail would be adjusted by mutual agreement. Nobody foresaw how unlikely it was that an individual, who was quite famous on the Downs as a crack shearer, would consent to be anything less than a foreman, although there would be no shearing to be done at New Australia." Finally a committee was selected to apportion the duties and the foremanships, with the result that a large number of the Utopians believed that they were unjustly treated. "No matter what was proposed by this committee, or for that matter, by any committee," complained Mrs. Lane, the leader's wife, "a large section of the members were sure to flout it with a string of captious objections."

Soon the New Australians found themselves forced to give Lane arbitrary authority; but that plan worked no better. Unmarried men could not see the justice of their working for the benefit of the children of married men. Increasing families were looked on askance by those whose families were not increasing. Things went from bad to worse. Instead of augmenting their property the colonists consumed it at an alarming pace. Pretty soon the control of Lane was shaken off and a pure Democracy established. Meanwhile a secession had taken place and the British Consul at Asuncion had an army of destitute Australians on his hands. The British Government sent Mr. M. de C. Findlay to investigate. Here is an extract from Mr. Findlay's report: "They came to found Utopia, and before I visited the colony had succeeded in creating (as they said) 'a hell upon earth.' . . . I feel morally certain that if the colony had been started on an individualistic basis (each colonist receiving an allotment), and with no complicated regulations to fight over, not a man would have left the settlement."

But unfortunately many a man found that he could not take his wife and children and leave the settlement,

so he took the next most obvious step. He refused to let any one share in the products of his labor. The sacred doctrine of "All for one and one for All" became hateful in the colonists' ears. They voted to abandon Socialism. Then they went to the Paraguayan Government and had the land grant reallotted in individual holdings and to-day they are fast recovering from the blight which Socialism cast on them.

I have dwelt at some length on the New Australia experiment because it is one of the most recent and most scientific. It was undertaken some two years after the date of Spencer's prophetic essay. *From Liberty to Bondage* predicted the impossibility of a Socialist State wherein men should be permitted to choose their own occupations. Amply did New Australia prove that in a Socialist State men must submit to the direction of leaders who are not responsible to them on Election Day.

There have been two other recent Australian experiments, one fostered by the Government of South Australia and the other by the Government of Queensland. The Murray River Settlement in South Australia broke down from three causes. First, unmarried men refused to work unless they received substantially the same shares as married men with families. Second, quarrels ensued as to how much work each group should perform. Third, the community could not agree on the farming operations to be undertaken. The Alice River Settlement in Queensland is the most recent failure. It abandoned Socialism in 1908.

But it is in the fertile States of this Union that the greatest number of Socialist communities have been founded. Repeated failures for a long time did not daunt the enthusiasts. Indeed it almost seemed as if each successive failure only served to propagate a crop of new experiments.

Americans have always fought the theory that his-

tory repeats itself. "If at first you don't succeed, try, try again" is a very popular hymn with us, confirmed optimists that we are and must be. But what shall we say if we continue to fail until seventy times seven times? What if the cause of our failure always reveals a quality in human nature which defies attempts to change it? After all, why should history repeat itself if human nature were continually changing for the better? Is not the very fact that history repeats itself merely another way of expressing the truth that like causes produce like results, and that human nature is the one "cause" which always remains a constant factor?

Just because Hawthorne and Dana and Ripley and Channing were participants, we are apt to look on Brook Farm as the best equipped Socialist community ever established in this country. Nothing could be further from the truth. The intellectual elevation of the Brook Farmers was certain to bring about the early obsequies of their experiment. No one yields to discipline less readily than your intellectual. Ask any officer of the Spanish War what he knows about the obstinacy of the "thinking bayonets" from our colleges.

The Socialist leader, Hillquit, in his *History of Socialism in the United States* says: "Fourierism was the first Socialist system to attain the dignity of a national movement in the United States. The movement lasted about a decade, from 1840 to 1850, and produced over forty social experiments in different parts of the country." Hillquit might have added that each one of these forty experiments proved a deplorable failure and that pretty nearly all of them were characterized by a revolt against the discipline which the leaders imposed;—a discipline, by the way, which was obviously essential if starvation was to be averted.

At least a dozen American Owenite communities came to grief with substantially the same history to record

as that of the Fourier Phalanxes. The Icarian settlements fared no better.

The only Socialist communities which showed any vigor at any time were the religious settlements of the Shakers and other sects. But even these religious experiments are to-day all dead or moribund. The only settlement which still shows much life is the Amana community, which covers seven fertile villages in Iowa. The census of 1910 showed that even this especially favored settlement is slightly falling off in population.

Hinds, the Oneida Socialist, in 1878 wrote a glowing account of Amana. For that matter, in the same book, he wrote a glowing account of the Oneida Community. Relentless evolution turned the Oneida Community into a joint stock company just two years later. But, to revert to Amana:—Hinds tells us that in that community marriage is discouraged, that women work in the field, that "these communists are not a reading people." The first of the Amana "Rules for Daily Life" is "To obey, without reasoning, God, and through God, our superiors," and another "Rule" bids them "Fly from the society of womenkind as much as possible." As a reward Hinds tells us that each Amana dweller is "sure of enough to eat and drink and wear so long as he lives." A fuller saucer of cream and no hope, in other words. Think of it:—seventeen hundred people living on some forty square miles of Iowa farming land, and this is the sole success to which Socialism can point. I fancy, for that matter, that a Socialist experimenter might survive in the Schloss Johannesburg vineyard. Schloss Johannesburg wine is worth five or ten dollars a bottle and that price is sufficiently remunerative easily to offset the economic handicap of Socialism.

East, West, North and South, all over the world, Socialist communities have gone to pieces, and yet hope springs eternal in the human breast.

How singular it is that the Socialist writers pay such slight attention to the national workshops established by the French Revolutionary Government in 1848. Few experiments in history are better worth studying. It took only a few months to show that the national workshop must either be a gigantic workhouse under the most exacting of masters or else a gigantic pandemonium of uncontrolled idleness. Lest any one should think this picture overdrawn, consider the words of Victor Hugo, poet, radical, banished from France because he was a menace to the Government of Louis Napoleon. Speaking in the French National Assembly, in 1848, he said: "The national workshops have proved a disastrous experiment. The wealthy idler we know well; you have created a person a hundred times more dangerous, both to himself and others—the pauper idler."

Failure, failure, and again failure. Yet the Socialist philosopher clings to the doctrine of the co-operative State. In the nineties during the heyday of Australian experiments in Socialist Communities, Professor Robert Flint of the University of Edinburgh wrote these words: "Wherever Communistic Associations have not proved failures as industrial or economic experiments, their success has been dependent on two conditions—namely, a small membership and a strict discipline; the one of which proves that Communism cannot be applied to nations, and the other of which shows that it is not in harmony with the temper of a Democratic age." Professor Flint is the author of *Socialism*, a not unkindly criticism of the dismal creed of "equality in hopelessness." Were Professor Flint to write to-day, now that all the promising socialist communities of the 'nineties have failed, how much stronger he could have made his criticism.

The institution of private property will not be abolished in this country, so long as the penniless boy sees

a reasonable chance to get some of it. But if ever the young men get it firmly fixed in their minds that they never can possess their own homes, then look out for trouble. It is ill arguing with empty stomachs and angry men will blindly destroy that which many generations cannot replace.

Thank the Lord the rising generation has no right to say that the door of opportunity is other than wide open. The rapidity with which wealth is acquired even by the uneducated immigrant is nothing short of marvellous. To those who think that the rich are growing richer and the poor growing poorer, I commend an inspection of the lists of automobile and motor cycle owners. If only those who were born with dollars in their cradles owned automobiles and motor cycles there would not be enough business going on to keep the sales agents from starving to death. And yet Socialists say that it is a self-evident fact that we are getting nearer Socialism every day. I deny it. It is perfectly true that every day sees more and more socialistic legislation passed, if we define socialistic legislation as a body of law which is designed to make A pay for that which B, C and D enjoy. Bless your soul, the passage of such laws doesn't mean that B, C and D are Socialists. It merely means that they are human and so they readily find arguments for voting to make A pay for their roads or their postage or their electric lights. No town meeting in New England votes for town water works or town electricity because the people have any theories about Government ownership. In their inmost souls they probably think that Government management is about as costly a piece of mechanism as can be devised. But they want their water works and they want their electric lights and they know that they can get them cheap if the town provides them, because the taxpayer has got to shoulder the bill for any deficiency in the balance sheet. It may be true that we are speed-

ing towards Government ownership of railroads, but it is not because of Karl Marx or Robert Owen or any other socialist philosopher. On the contrary it is because of the plain logic of the circumstances which confront Smith, Brown and Robinson. Smith, the shipper, must have low freight rates or he is convinced that he cannot compete. Consequently, the Government makes the railroad give him low freight rates. Thereupon Brown, the locomotive engineer, finds that there is no surplus fund out of which to grant him increased wages wherewith to meet the higher cost of living. Naturally Brown begins to think about the Government and the unlimited funds at its disposal. About this time Robinson, the stockholder, discovers that he cannot make any money with Smith pressing him on one side and Brown pressing him on the other and the Government teetering up and down in between.

Thereupon Robinson, the stockholder, visits his lawyer and instructs that astute gentleman to quit fighting Government ownership and devote his energy to getting the Government to pay a good price for his railroad. So, the first thing we know we find Smith, Brown and Robinson joining hands and tripping a merry measure, while off in a corner sits the doleful taxpayer with his purse open to pay the piper.

And yet, for all that, I do not think that we are getting nearer to Socialism. If I thought that Government ownership would pay, I admit that I should have some apprehensions. Not only do I believe that it will not pay, but I doubt whether any one at heart expects it to pay on any proper system of bookkeeping. What then do I think will happen? Do I think that Government ownership will spread? Yes. Do I think that State expenditures in the way of pensions for the indigent and insurance against sickness and guarantees against unemployment will increase? Yes. Then why shall we not ultimately come to Socialism? Because,

when taxation becomes so high that an increased rate brings a diminished return to the tax-gatherer, at that moment the tide must turn and will turn, unless the community really believes that production can be more economically carried on by functionaries than by private citizens. Even then I doubt whether the American of to-morrow will accept the juicier steak and the life long regimentation which the International Socialist offers and relinquish that hope for personal advancement and that hard-won liberty which is the glory of our national life.

FROM FREEDOM TO BONDAGE

HERBERT SPENCER

Of the many ways in which common-sense inferences about social affairs are flatly contradicted by events (as when measures taken to suppress a book cause increased circulation of it, or as when attempts to prevent usurious rates of interest make the terms harder for the borrower, or as when there is greater difficulty in getting things at the places of production than elsewhere) one of the most curious is the way in which the more things improve the louder become the exclamations about their badness.

In days when the people were without any political power, their subjection was rarely complained of; but after free institutions had so far advanced in England that our political arrangements were envied by continental peoples, the denunciations of aristocratic rule grew gradually stronger, until there came a great widening of the franchise, soon followed by complaints that things were going wrong for want of still further widening. If we trace up the treatment of women from the days of savagedom, when they bore all the burdens

and after the men had eaten received such food as remained, up through the middle ages when they served the men at their meals, to our own day when throughout our social arrangements the claims of women are always put first, we see that along with the worst treatment there went the least apparent consciousness that the treatment was bad; while now that they are better treated than ever before, the proclaiming of their grievances daily strengthens: the loudest outcries coming from "the paradise of women," America. A century ago, when scarcely a man could be found who was not occasionally intoxicated, and when inability to take one or two bottles of wine brought contempt, no agitation arose against the vice of drunkenness; but now that, in the course of fifty years, the voluntary efforts of temperance societies, joined with more general causes, have produced comparative sobriety, there are vociferous demands for laws to prevent the ruinous effects of the liquor traffic. Similarly again with education. A few generations back, ability to read and write was practically limited to the upper and middle classes, and the suggestion that the rudiments of culture should be given to laborers was never made, or, if made, ridiculed; but when, in the days of our grandfathers, the Sunday-school system, initiated by a few philanthropists, began to spread and was followed by the establishment of day-schools, with the result that among the masses those who could read and write were no longer the exceptions, and the demand for cheap literature rapidly increased, there began the cry that the people were perishing for lack of knowledge, and that the State must not simply educate them but must force education upon them.

And so is it, too, with the general state of the population in respect of food, clothing, shelter, and the appliances of life. Leaving out of the comparison early barbaric states, there has been a conspicuous progress

from the time when most rustics lived on barley bread, rye bread, and oatmeal, down to our own time when the consumption of white wheaten bread is universal—from the days when coarse jackets reaching to the knees left the legs bare, down to the present day when laboring people, like their employers, have the whole body covered, by two or more layers of clothing—from the old era of single-roomed huts without chimneys, or from the 15th century when even an ordinary gentleman's house was commonly without wainscot or plaster on its walls, down to the present century when every cottage has more rooms than one and the houses of artisans usually have several, while all have fire-places, chimneys, and glazed windows, accompanied mostly by paper-hangings and painted doors; there has been, I say, a conspicuous progress in the condition of the people. And this progress has been still more marked within our own time. Any one who can look back 60 years, when the amount of pauperism was far greater than now and beggars abundant, is struck by the comparative size and finish of the new houses occupied by operatives—by the better dress of workmen, who wear broad-cloth on Sundays, and that of servant girls, who vie with their mistresses—by the higher standard of living which leads to a great demand for the best qualities of food by working people: all results of the double change to higher wages and cheaper commodities, and a distribution of taxes which has relieved the lower classes at the expense of the upper classes. He is struck, too, by the contrast between the small space which popular welfare then occupied in public attention, and the large space it now occupies, with the result that outside and inside Parliament, plans to benefit the millions form the leading topics, and every one having means is expected to join in some philanthropic effort. Yet while elevation, mental and physical, of the masses is going on far more rapidly than

ever before—while the lowering of the death-rate proves that the average life is less trying, there swells louder and louder the cry that the evils are so great that nothing short of a social revolution can cure them. In presence of obvious improvements, joined with that increase of longevity which even alone yields conclusive proof of general amelioration, it is proclaimed, with increasing vehemence, that things are so bad that society must be pulled to pieces and re-organized on another plan. In this case, then, as in the previous cases instanced, in proportion as the evil decreases the denunciation of it increases; and as fast as natural causes are shown to be powerful there grows up the belief that they are powerless.

Not that the evils to be remedied are small. Let no one suppose that, by emphasizing the above paradox, I wish to make light of the sufferings which most men have to bear. The fates of the great majority have ever been, and doubtless still are, so sad that it is painful to think of them. Unquestionably the existing type of social organization is one which none who care for their kind can contemplate with satisfaction; and unquestionably men's activities accompanying this type are far from being admirable. The strong divisions of rank and the immense inequalities of means, are at variance with that ideal of human relations on which the sympathetic imagination likes to dwell; and the average conduct, under the pressure and excitement of social life as at present carried on, is in sundry respects repulsive. Though the many who revile competition strangely ignore the enormous benefits resulting from it—though they forget that most of the appliances and products distinguishing civilization from savagery, and making possible the maintenance of a large population on a small area, have been developed by the struggle for existence—though they disregard the fact that while every man, as producer, suffers from the under-

bidding of competitors, yet, as consumer, he is immensely advantaged by the cheapening of all he has to buy—though they persist in dwelling on the evils of competition and saying nothing of its benefits; yet it is not to be denied that the evils are great, and form a large set-off from the benefits. The system under which we at present live fosters dishonesty and lying. It prompts adulterations of countless kinds; it is answerable for the cheap imitations which eventually in many cases thrust the genuine articles out of the market; it leads to the use of short weights and false measures; it introduces bribery, which vitiates most trading relations, from those of the manufacturer and buyer down to those of the shopkeeper and servant; it encourages deception to such an extent that an assistant who cannot tell a falsehood with a good face is blamed; and often it gives the conscientious trader the choice between adopting the malpractices of his competitors, or greatly injuring his creditors by bankruptcy. Moreover, the extensive frauds, common throughout the commercial world and daily exposed in law-courts and newspapers, are largely due to the pressure under which competition places the higher industrial classes; and are otherwise due to that lavish expenditure which, as implying success in the commercial struggle, brings honor. With these minor evils must be joined the major one, that the distribution achieved by the system, gives to those who regulate and superintend, a share of the total produce which bears too large a ratio to the share it gives to the actual workers. Let it not be thought, then, that in saying what I have said above, I under-estimate those vices of our competitive system which, 30 years ago, I described and denounced.[1] But it is not a question of absolute evils; it is a question of relative evils—whether the evils at present suffered are or are not less than the evils which would be suffered

[1] See essay on "The Morals of Trade."

under another system—whether efforts for mitigation along the lines thus far followed are not more likely to succeed than efforts along utterly different lines.

This is the question here to be considered. I must be excused for first of all setting forth sundry truths which are, to some at any rate, tolerably familiar, before proceeding to draw inferences which are not so familiar.

Speaking broadly, every man works that he may avoid suffering. Here, remembrance of the pangs of hunger prompts him; and there, he is prompted by the sight of the slave-driver's lash. His immediate dread may be the punishment which physical circumstances will inflict, or may be punishment inflicted by human agency. He must have a master; but the master may be Nature or may be a fellow man. When he is under the impersonal coercion of Nature, we say that he is free; and when he is under the personal coercion of some one above him, we call him, according to the degree of his dependence, a slave, a serf, or a vassal. Of course I omit the small minority who inherit means: an incidental, and not a necessary, social element. I speak only of the vast majority, both cultured and uncultured, who maintain themselves by labor, bodily or mental, and must either exert themselves of their own unconstrained wills, prompted only by thoughts of naturally-resulting evils or benefits, or must exert themselves with constrained wills, prompted by thoughts of evils and benefits artificially resulting.

Men may work together in a society under either of these two forms of control: forms which, though in many cases mingled, are essentially contrasted. Using the word co-operation in its wide sense, and not in that restricted sense now commonly given to it, we may say that social life must be carried on by either voluntary co-operation or compulsory co-operation; or, to use

Sir Henry Maine's words, the system must be that of *contract* or that of *status*—that in which the individual is left to do the best he can by his spontaneous efforts and get success or failure according to his efficiency, and that in which he has his appointed place, works under coercive rule, and has his apportioned share of food, clothing, and shelter.

The system of voluntary co-operation is that by which, in civilized societies, industry is now everywhere carried on. Under a simple form we have it on every farm, where the laborers, paid by the farmer himself and taking orders directly from him, are free to stay or go as they please. And of its more complex form an example is yielded by every manufacturing concern, in which, under partners, come managers and clerks, and under these, time-keepers and over-lookers, and under these operatives of different grades. In each of these cases there is an obvious working together, or co-operation, of employer and employed, to obtain in the one case a crop and in the other case a manufactured stock. And then, at the same time, there is a far more extensive, though unconscious, co-operation with other workers of all grades throughout the society. For while these particular employers and employed are severally occupied with their special kinds of work, other employers and employed are making other things needed for the carrying on of their lives as well as the lives of all others. This voluntary co-operation, from its simplest to its most complex forms, has the common trait that those concerned work together by consent. There is no one to force terms or to force acceptance. It is perfectly true that in many cases an employer may give, or an *employé* may accept, with reluctance: circumstances he says compel him. But what are the circumstances? In the one case there are goods ordered, or a contract entered into, which he cannot supply or execute without yielding; and in the other case

he submits to a wage less than he likes because otherwise he will have no money wherewith to procure food and warmth. The general formula is not—"Do this, or I will make you;" but it is—"Do this, or leave your place and take the consequences."

On the other hand, compulsory co-operation is exemplified by an army—not so much by our own army, the service in which is under agreement for a specified period, but in a continental army, raised by conscription. Here, in time of peace, the daily duties—cleaning, parade, drill, sentry work, and the rest—and in time of war the various actions of the camp and the battle-field, are done under command, without room for any exercise of choice. Up from the private soldier through the non-commissioned officers and the half-dozen or more grades of commissioned officers, the universal law is absolute obedience from the grade below to the grade above. The sphere of individual will is such only as is allowed by the will of the superior. Breaches of subordination are, according to their gravity, dealt with by deprivation of leave, extra drill, imprisonment, flogging, and, in the last resort, shooting. Instead of the understanding that there must be obedience in respect of specified duties under pain of dismissal; the understanding now is—"Obey in everything ordered under penalty of inflicted suffering and perhaps death."

This form of co-operation, still exemplified in an army, has in days gone by been the form of co-operation throughout the civil population. Everywhere, and at all times, chronic war generates a militant type of structure, not in the body of soldiers only but throughout the community at large. Practically, while the conflict between societies is actively going on, and fighting is regarded as the only manly occupation, the society is the quiescent army and the army the mobilized society: that part which does not take part in battle,

composed of slaves, serfs, women, &c., constituting the commissariat. Naturally, therefore, throughout the mass of inferior individuals constituting the commissariat, there is maintained a system of discipline identical in nature if less elaborate. The fighting body being, under such conditions, the ruling body, and the rest of the community being incapable of resistance, those who control the fighting body will, of course, impose their control upon the non-fighting body; and the *régime* of coercion will be applied to it with such modifications only as the different circumstances involve. Prisoners of war become slaves. Those who were free cultivators before the conquest of their country, become serfs attached to the soil. Petty chiefs become subject to superior chiefs; these smaller lords become vassals to over-lords; and so on up to the highest: the social ranks and powers being of like essential nature with the ranks and powers throughout the military organization. And while for the slaves compulsory co-operation is the unqualified system, a co-operation which is in part compulsory is the system that pervades all grades above. Each man's oath of fealty to his suzerain takes the form—"I am your man."

Throughout Europe, and especially in our own country, this system of compulsory co-operation gradually relaxed in rigor, while the system of voluntary co-operation step by step replaced it. As fast as war ceased to be the business of life, the social structure produced by war and appropriate to it, slowly became qualified by the social structure produced by industrial life and appropriate to it. In proportion as a decreasing part of the community was devoted to offensive and defensive activities, an increasing part became devoted to production and distribution. Growing more numerous, more powerful, and taking refuge in towns where it was less under the power of the militant class, this industrial population carried on its life under the system

of voluntary co-operation. Though municipal governments and guild-regulations, partially pervaded by ideas and usages derived from the militant type of society, were in some degree coercive; yet production and distribution were in the main carried on under agreement—alike between buyers and sellers, and between masters and workmen. As fast as these social relations and forms of activity became dominant in urban populations, they influenced the whole community: compulsory co-operation lapsed more and more, through money commutation for services, military and civil; while divisions of rank became less rigid and class-power diminished. Until at length, restraints exercised by incorporated trades having fallen into desuetude, as well as the rule of rank over rank, voluntary co-operation became the universal principle. Purchase and sale became the law for all kinds of services as well as for all kinds of commodities.

The restlessness generated by pressure against the conditions of existence, perpetually prompts the desire to try a new position. Every one knows how long-continued rest in one attitude becomes wearisome—every one has found how even the best easy chair, at first rejoiced in, becomes after many hours intolerable; and change to a hard seat, previously occupied and rejected, seems for a time to be a great relief. It is the same with incorporated humanity. Having by long struggles emancipated itself from the hard discipline of the ancient *régime*, and having discovered that the new *régime* into which it has grown, though relatively easy, is not without stresses and pains, its impatience with these prompts the wish to try another system: which other system is, in principle if not in appearance, the same as that which during past generations was escaped from with much rejoicing.

For as fast as the *régime* of contract is discarded

the *régime* of status is of necessity adopted. As fast as voluntary co-operation is abandoned compulsory co-operation must be substituted. Some kind of organization labor must have; and if it is not that which arises by agreement under free competition, it must be that which is imposed by authority. Unlike in appearance and names as it may be to the old order of slaves and serfs, working under masters, who were coerced by barons, who were themselves vassals of dukes or kings, the new order wished for, constituted by workers under foremen of small groups, overlooked by superintendents, who are subject to higher local managers, who are controlled by superiors of districts, themselves under a central government, must be essentially the same in principle. In the one case, as in the other, there must be established grades, and enforced subordination of each grade to the grades above. This is a truth which the communist or the socialist does not dwell upon. Angry with the existing system under which each of us takes care of himself, while all of us see that each has fair play, he thinks how much better it would be for all of us to take care of each of us; and he refrains from thinking of the machinery by which this is to be done. Inevitably, if each is to be cared for by all, then the embodied all must get the means—the necessaries of life. What it gives to each must be taken from the accumulated contributions; and it must therefore require from each his proportion—must tell him how much he has to give to the general stock in the shape of production, that he may have so much in the shape of sustentation. Hence, before he can be provided for, he must put himself under orders, and obey those who say what he shall do, and at what hours, and where; and who give him his share of food, clothing, and shelter. If competition is excluded, and with it buying and selling, there can be no voluntary exchange of so much labor for so much produce; but there must

be apportionment of the one to the other by appointed officers. This apportionment must be enforced. Without alternative the work must be done, and without alternative the benefit, whatever it may be, must be accepted. For the worker may not leave his place at will and offer himself elsewhere. Under such a system he cannot be accepted elsewhere, save by order of the authorities. And it is manifest that a standing order would forbid employment in one place of an insubordinate member from another place: the system could not be worked if the workers were severally allowed to go or come as they pleased. With corporals and sergeants under them, the captains of industry must carry out the orders of their colonels, and these of their generals, up to the council of the commander-in-chief; and obedience must be required throughout the industrial army as throughout a fighting army. "Do your prescribed duties, and take your apportioned rations," must be the rule of the one as of the other.

"Well, be it so;" replies the socialist. "The workers will appoint their own officers, and these will always be subject to criticisms of the mass they regulate. Being thus in fear of public opinion, they will be sure to act judiciously and fairly; or when they do not, will be deposed by the popular vote, local or general. Where will be the grievance of being under superiors, when the superiors themselves are under democratic control?" And in this attractive vision the socialist has full belief.

Iron and brass are simpler things than flesh and blood, and dead wood than living nerve; and a machine constructed of the one works in more definite ways than an organism constructed of the other,—especially when the machine is worked by the inorganic forces of steam or water, while the organism is worked by the forces of living nerve-centres. Manifestly, then, the ways in

which the machine will work are much more readily calculable than the ways in which the organism will work. Yet in how few cases does the inventor foresee rightly the actions of his new apparatus! Read the patent-list, and it will be found that not more than one device in fifty turns out to be of any service. Plausible as his scheme seemed to the inventor, one or other hitch prevents the intended operation, and brings out a widely different result from that which he wished.

What, then, shall we say of these schemes which have to do not with dead matters and forces, but with complex living organisms working in ways less readily foreseen, and which involve the co-operation of multitudes of such organisms? Even the units out of which this rearranged body politic is to be formed are often incomprehensible. Every one is from time to time surprised by others' behavior, and even by the deeds of relatives who are best known to him. Seeing, then, how uncertainly any one can foresee the actions of an individual, how can he with any certainty foresee the operation of a social structure? He proceeds on the assumption that all concerned will judge rightly and act fairly—will think as they ought to think, and act as they ought to act; and he assumes this regardless of the daily experiences which show him that men do neither the one nor the other, and forgetting that the complaints he makes against the existing system show his belief to be that men have neither the wisdom nor the rectitude which his plan requires them to have.

Paper constitutions raise smiles on the faces of those who have observed their results; and paper social systems similarly affect those who have contemplated the available evidence. How little the men who wrought the French revolution and were chiefly concerned in setting up the new governmental apparatus, dreamt that one of the early actions of this apparatus would be to behead them all! How little the men who drew

up the American Declaration of Independence and framed the republic, anticipated that after some generations the legislature would lapse into the hands of wire-pullers; that its doings would turn upon the contests of office-seekers; that political action would be everywhere vitiated by the intrusion of a foreign element holding the balance between parties; that electors, instead of judging for themselves, would habitually be led to the polls in thousands by their "bosses;" and that respectable men would be driven out of public life by the insults and slanders of professional politicians. Nor were there better previsions in those who gave constitutions to the various other states of the New World, in which unnumbered revolutions have shown with wonderful persistence the contrasts between the expected results of political systems and the achieved results. It has been no less thus with proposed systems of social re-organization, so far as they have been tried. Save where celibacy has been insisted on, their history has been everywhere one of disaster; ending with the history of Cabet's Icarian colony lately given by one of its members, Madame Fleury Robinson, in *The Open Court*—a history of splittings, re-splittings, and re-re-splittings, accompanied by numerous individual secessions and final dissolution. And for the failure of such social schemes, as for the failure of the political schemes, there has been one general cause.

Metamorphosis is the universal law, exemplified throughout the Heavens and on the Earth: especially throughout the organic world; and above all in the animal division of it. No creature, save the simplest and most minute, commences its existence in a form like that which it eventually assumes; and in most cases the unlikeness is great—so great that kinship between the first and the last forms would be incredible were it not daily demonstrated in every poultry-yard and every garden. More than this is true. The changes of form

are often several: each of them being an apparently complete transformation—egg, larva, pupa, imago, for example. And this universal metamorphosis, displayed alike in the development of a planet and of every seed which germinates on its surface, holds also of societies, whether taken as wholes or in their separate institutions. No one of them ends as it begins; and the difference between its original structure and its ultimate structure is such that, at the outset, change of the one into the other would have seemed incredible. In the rudest tribe the chief, obeyed as leader in war, loses his distinctive position when the fighting is over; and even where continued warfare has produced permanent chieftainship, the chief, building his own hut, getting his own food, making his own implements, differs from others only by his predominant influence. There is no sign that in course of time, by conquests and unions of tribes, and consolidations of clusters so formed with other such clusters, until a nation has been produced, there will originate from the primitive chief, one who, as czar or emperor, surrounded with pomp and ceremony, has despotic power over scores of millions, exercised through hundreds of thousands of soldiers and hundreds of thousands of officials. When the early Christian missionaries, having humble externals and passing self-denying lives, spread over pagan Europe, preaching forgiveness of injuries and the returning of good for evil, no one dreamt that in course of time their representatives would form a vast hierarchy, possessing everywhere a large part of the land, distinguished by the haughtiness of its members grade above grade, ruled by military bishops who led their retainers to battle, and headed by a pope exercising supreme power over kings. So, too, has it been with that very industrial system which many are now so eager to replace. In its original form there was no prophecy of the factory-system or kindred organizations of workers. Dif-

fering from them only as being the head of his house, the master worked along with his apprentices and a journeyman or two, sharing with them his table and accommodation, and himself selling their joint produce. Only with industrial growth did there come employment of a larger number of assistants, and a relinquishment, on the part of the master, of all other business than that of superintendence. And only in the course of recent times did there evolve the organizations under which the labors of hundreds and thousands of men receiving wages, are regulated by various orders of paid officials under a single or multiple head. These originally small, semi-socialistic, groups of producers, like the compound families or house-communities of early ages, slowly dissolved because they could not hold their ground: the larger establishments, with better sub-division of labor, succeeded because they ministered to the wants of society more effectually. But we need not go back through the centuries to trace transformations sufficiently great and unexpected. On the day when £30,000 a year in aid of education was voted as an experiment, the name of idiot would have been given to an opponent who prophesied that in 50 years the sum spent through imperial taxes and local rates would amount to £10,000,000 or who said that the aid to education would be followed by aids to feeding and clothing, or who said that parents and children, alike deprived of all option, would, even if starving, be compelled by fine or imprisonment to conform, and receive that which, with papal assumption, the State calls education. No one, I say, would have dreamt that out of so innocent-looking a germ would have so quickly evolved this tyrannical system, tamely submitted to by people who fancy themselves free.

Thus in social arrangements, as in all other things, change is inevitable. It is foolish to suppose that new institutions set up, will long retain the character given

them by those who set them up. Rapidly or slowly they will be transformed into institutions unlike those intended—so unlike as even to be unrecognizable by their devisers. And what, in the case before us, will be the metamorphosis? The answer pointed to by instances above given, and warranted by various analogies, is manifest.

A cardinal trait in all advancing organization is the development of the regulative apparatus. If the parts of a whole are to act together, there must be appliances by which their actions are directed; and in proportion as the whole is large and complex, and has many requirements to be met by many agencies, the directive apparatus must be extensive, elaborate, and powerful. That it is thus with individual organisms needs no saying; and that it must be thus with social organisms is obvious. Beyond the regulative apparatus such as in our own society is required for carrying on national defence and maintaining public order and personal safety, there must, under the *régime* of socialism, be a regulative apparatus everywhere controlling all kinds of production and distribution, and everywhere apportioning the shares of products of each kind required for each locality, each working establishment, each individual. Under our existing voluntary co-operation, with its free contracts and its competition, production and distribution need no official oversight. Demand and supply, and the desire of each man to gain a living by supplying the needs of his fellows, spontaneously evolve that wonderful system whereby a great city has its food daily brought round to all doors or stored at adjacent shops; has clothing for its citizens everywhere at hand in multitudinous varieties; has its houses and furniture and fuel ready made or stocked in each locality; and has mental pabulum from halfpenny papers hourly hawked round, to weekly shoals of novels, and less abundant books of instruction, furnished without

stint for small payments. And throughout the kingdom, production as well as distribution is similarly carried on with the smallest amount of superintendence which proves efficient; while the quantities of the numerous commodities required daily in each locality are adjusted without any other agency than the pursuit of profit. Suppose now that this industrial *régime* of willinghood, acting spontaneously, is replaced by a *régime* of industrial obedience, enforced by public officials. Imagine the vast administration required for that distribution of all commodities to all people in every city, town and village, which is now effected by traders! Imagine, again, the still more vast administration required for doing all that farmers, manufacturers, and merchants do; having not only its various orders of local superintendents, but its sub-centres and chief centres needed for apportioning the quantities of each thing everywhere needed, and the adjustment of them to the requisite times. Then add the staffs wanted for working mines, railways, roads, canals; the staffs required for conducting the importing and exporting businesses and the administration of mercantile shipping; the staffs required for supplying towns not only with water and gas but with locomotion by tramways, omnibuses, and other vehicles, and for the distribution of power, electric and other. Join with these the existing postal, telegraphic, and telephonic administrations; and finally those of the police and army, by which the dictates of this immense consolidated regulative system are to be everywhere enforced. Imagine all this and then ask what will be the position of the actual workers! Already on the continent, where governmental organizations are more elaborate and coercive than here, there are chronic complaints of the tyranny of bureaucracies—the *hauteur* and brutality of their members. What will these become when not only the more public actions of citizens are controlled, but there

is added this far more extensive control of all their respective daily duties? What will happen when the various divisions of this vast army of officials, united by interests common to officialism—the interests of the regulators *versus* those of the regulated—have at their command whatever force is needful to suppress insubordination and act as "saviours of society"? Where will be the actual diggers and miners and smelters and weavers, when those who order and superintend, everywhere arranged class above class, have come, after some generations, to inter-marry with those of kindred grades, under feelings such as are operative in existing classes; and when there have been so produced a series of castes rising in superiority; and when all these, having everything in their own power, have arranged modes of living for their own advantage: eventually forming a new aristocracy far more elaborate and better organized than the old? How will the individual worker fare if he is dissatisfied with his treatment—thinks that he has not an adequate share of the products, or has more to do than can rightly be demanded, or wishes to undertake a function for which he feels himself fitted but which is not thought proper for him by his superiors, or desires to make an independent career for himself? This dissatisfied unit in the immense machine will be told he must submit or go. The mildest penalty for disobedience will be industrial excommunication. And if an international organization of labor is formed as proposed, exclusion in one country will mean exclusion in all others—industrial excommunication will mean starvation.

That things must take this course is a conclusion reached not by deduction only, nor only by induction from those experiences of the past instanced above, nor only from consideration of the analogies furnished by organisms of all orders; but it is reached also by observation of cases daily under our eyes. The truth

that the regulative structure always tends to increase in power, is illustrated by every established body of men. The history of each learned society, or society for other purpose, shows how the staff, permanent or partially permanent, sways the proceedings and determines the actions of the society with but little resistance, even when most members of the society disapprove: the repugnance to anything like a revolutionary step being ordinarily an efficient deterrent. So is it with joint-stock companies—those owning railways for example. The plans of a board of directors are usually authorized with little or no discussion; and if there is any considerable opposition, this is forthwith crushed by an overwhelming number of proxies sent by those who always support the existing administration. Only when the misconduct is extreme does the resistance of shareholders suffice to displace the ruling body. Nor is it otherwise with societies formed of working men and having the interests of labor especially at heart—the trades-unions. In these, too, the regulative agency becomes all powerful. Their members, even when they dissent from the policy pursued, habitually yield to the authorities they have set up. As they cannot secede without making enemies of their fellow workmen, and often losing all chance of employment, they succumb. We are shown, too, by the late congress, that already, in the general organization of trades-unions so recently formed, there are complaints of "wire-pullers" and "bosses" and "permanent officials." If, then, this supremacy of the regulators is seen in bodies of quite modern origin, formed of men who have, in many of the cases instanced, unhindered powers of asserting their independence, what will the supremacy of the regulators become in long-established bodies, in bodies which have become vast and highly organized, and in bodies which, instead of controlling only a small part of the unit's life, control the whole of his life?

Again there will come the rejoinder—"We shall guard against all that. Everybody will be educated; and all, with their eyes constantly open to the abuse of power, will be quick to prevent it." The worth of these expectations would be small even could we not identify the causes which will bring disappointment; for in human affairs the most promising schemes go wrong in ways which no one anticipated. But in this case the going wrong will be necessitated by causes which are conspicuous. The working of institutions is determined by men's characters; and the existing defects in their characters will inevitably bring about the results above indicated. There is no adequate endowment of those sentiments required to prevent the growth of a despotic bureaucracy.

Were it needful to dwell on indirect evidence, much might be made of that furnished by the behavior of the so-called Liberal party—a party which, relinquishing the original conception of a leader as a mouthpiece for a known and accepted policy, thinks itself bound to accept a policy which its leader springs upon it without consent or warning—a party so utterly without the feeling and idea implied by liberalism, as not to resent this tramping on the right of private judgment, which constitutes the root of liberalism—nay, a party which vilifies as renegade liberals, those of its members who refuse to surrender their independence! But without occupying space with indirect proofs that the mass of men have not the natures required to check the development of tyrannical officialism, it will suffice to contemplate the direct proofs furnished by those classes among whom the socialistic idea most predominates, and who think themselves most interested in propagating it—the operative classes. These would constitute the great body of the socialistic organization, and their characters would determine its nature. What, then,

are their characters as displayed in such organizations as they have already formed?

Instead of the selfishness of the employing classes and the selfishness of competition, we are to have the unselfishness of a mutually-aiding system. How far is this unselfishness now shown in the behavior of working men to one another? What shall we say to the rules limiting the numbers of new hands admitted into each trade, or to the rules which hinder ascent from inferior classes of workers to superior classes? One does not see in such regulations any of that altruism by which socialism is to be pervaded. Contrariwise, one sees a pursuit of private interests no less keen than among traders. Hence, unless we suppose that men's natures will be suddenly exalted, we must conclude that the pursuit of private interests will sway the doings of all the component classes in a socialistic society.

With passive disregard of others' claims goes active encroachment on them. "Be one of us or we will cut off your means of living," is the usual threat of each trades-union to outsiders of the same trade. While their members insist on their own freedom to combine and fix the rates at which they will work (as they are perfectly justified in doing), the freedom of those who disagree with them is not only denied but the assertion of it is treated as a crime. Individuals who maintain their rights to make their own contracts are vilified as "blacklegs" and "traitors," and meet with violence which would be merciless were there no legal penalties and no police. Along with this trampling on the liberties of men of their own class, there goes peremptory dictation to the employing class: not prescribed terms and working arrangements only shall be conformed to, but none save those belonging to their body shall be employed—nay, in some cases, there shall be a strike if the employer carries on transactions with trading bodies that give work to non-union men. Here, then, we are

variously shown by trades-unions, or at any rate by the newer trades-unions, a determination to impose their regulations without regard to the rights of those who are to be coerced. So complete is the inversion of ideas and sentiments that maintenance of these rights is regarded as vicious and trespass upon them as virtuous.[1]

Along with this aggressiveness in one direction there goes submissiveness in another direction. The coercion of outsiders by unionists is paralleled only by their subjection to their leaders. That they may conquer in the struggle they surrender their individual liberties and individual judgments, and show no resentment however dictatorial may be the rule exercised over them. Everywhere we see such subordination that bodies of workmen unanimously leave their work or return to it as their authorities order them. Nor do they resist when taxed all round to support strikers whose acts they may or may not approve, but instead, ill-treat recalcitrant members of their body who do not subscribe.

The traits thus shown must be operative in any new social organization, and the question to be asked is—What will result from their operation when they are

[1] Marvellous are the conclusions men reach when once they desert the simple principle, that each man should be allowed to pursue the objects of life, restrained only by the limits which the similar pursuits of their objects by other men impose. A generation ago we heard loud assertions of "the right to labor," that is, the right to have labor provided; and there are still not a few who think the community bound to find work for each person. Compare this with the doctrine current in France at the time when the monarchical power culminated; namely, that "the right of working is a royal right which the prince can sell and the subjects must buy." This contrast is startling enough; but a contrast still more startling is being provided for us. We now see a resuscitation of the despotic doctrine, differing only by the substitution of Trades-Unions for kings. For now that Trades-Unions are becoming universal, and each artisan has to pay prescribed monies to one or another of them, with the alternative of being a non-unionist to whom work is denied by force, it has come to this, that the right to labor is a Trade-Union right, which the Trade-Union can sell and the individual worker must buy!

relieved from all restraints? At present the separate bodies of men displaying them are in the midst of a society partially passive, partially antagonistic; are subject to the criticisms and reprobations of an independent press; and are under the control of law, enforced by police. If in these circumstances these bodies habitually take courses which override individual freedom, what will happen when, instead of being only scattered parts of the community, governed by their separate sets of regulators, they constitute the whole community, governed by a consolidated system of such regulators; when functionaries of all orders, including those who officer the press, form parts of the regulative organization; and when the law is both enacted and administered by this regulative organization? The fanatical adherents of a social theory are capable of taking any measures, no matter how extreme, for carrying out their views: holding, like the merciless priesthoods of past times, that the end justifies the means. And when a general socialistic organization has been established, the vast, ramified, and consolidated body of those who direct its activities, using without check whatever coercion seems to them needful in the interests of the system (which will practically become their own interests) will have no hesitation in imposing their rigorous rule over the entire lives of the actual workers; until, eventually, there is developed an official oligarchy, with its various grades, exercising a tyranny more gigantic and more terrible than any which the world has seen.

Let me again repudiate an erroneous inference. Any one who supposes that the foregoing argument implies contentment with things as they are, makes a profound mistake. The present social state is transitional, as past social states have been transitional. There will, I hope, and believe, come a future social state differing

as much from the present as the present differs from the past with its mailed barons and defenceless serfs. In *Social Statics*, as well as in *The Study of Sociology* and in *Political Institutions*, is clearly shown the desire for an organization more conducive to the happiness of men at large than that which exists. My opposition to socialism results from the belief that it would stop the progress to such a higher state and bring back a lower state. Nothing but the slow modification of human nature by the discipline of social life, can produce permanently advantageous changes.

A fundamental error pervading the thinking of nearly all parties, political and social, is that evils admit of immediate and radical remedies. "If you will but do this, the mischief will be prevented." "Adopt my plan and the suffering will disappear." "The corruption will unquestionably be cured by enforcing this measure." Everywhere one meets with beliefs, expressed or implied, of these kinds. They are all ill-founded. It is possible to remove causes which intensify the evils; it is possible to change the evils from one form into another; and it is possible, and very common, to exacerbate the evils by the efforts made to prevent them; but anything like immediate cure is impossible. In the course of thousands of years mankind have, by multiplication, been forced out of that original savage state in which small numbers supported themselves on wild food, into the civilized state in which the food required for supporting great numbers can be got only by continuous labor. The nature required for this last mode of life is widely different from the nature required for the first; and long-continued pains have to be passed through in re-molding the one into the other. Misery has necessarily to be borne by a constitution out of harmony with its conditions; and a constitution inherited from primitive men is out of harmony with the conditions imposed on existing men. Hence it is impos-

sible to establish forthwith a satisfactory social state. No such nature as that which has filled Europe with millions of armed men, here eager for conquest and there for revenge—no such nature as that which prompts the nations called Christian to vie with one another in filibustering expeditions all over the world, regardless of the claims of aborigines, while their tens of thousands of priests of the religion of love look on approvingly—no such nature as that which, in dealing with weaker races, goes beyond the primitive rule of life for life, and for one life takes many lives—no such nature, I say, can, by any device, be framed into a harmonious community. The root of all well-ordered social action is a sentiment of justice, which at once insists on personal freedom and is solicitous for the like freedom of others; and there at present exists but a very inadequate amount of this sentiment.

Hence the need for further long continuance of a social discipline which requires each man to carry on his activities with due regard to the like claims of others to carry on their activities; and which, while it insists that he shall have all the benefits his conduct naturally brings, insists also that he shall not saddle on others the evils his conduct naturally brings: unless they freely undertake to bear them. And hence the belief that endeavors to elude this discipline, will not only fail, but will bring worse evils than those to be escaped.

It is not, then, chiefly in the interests of the employing classes that socialism is to be resisted, but much more in the interests of the employed classes. In one way or other production must be regulated; and the regulators, in the nature of things, must always be a small class as compared with the actual producers. Under voluntary co-operation as at present carried on, the regulators, pursuing their personal interests, take as large a share of the produce as they can get; but, as we are daily shown by trades-union successes, are re-

strained in the selfish pursuit of their ends. Under that compulsory co-operation which socialism would necessitate, the regulators, pursuing their personal interests with no less selfishness, could not be met by the combined resistance of free workers; and their power, unchecked as now by refusals to work save on prescribed terms, would grow and ramify and consolidate till it became irresistible. The ultimate result, as I have before pointed out, must be a society like that of ancient Peru, dreadful to contemplate, in which the mass of the people, elaborately regimented in groups of 10, 50, 100, 500, and 1,000, ruled by officers of corresponding grades, and tied to their districts, were superintended in their private lives as well as in their industries, and toiled hopelessly for the support of the governmental organization.

HERBERT SPENCER'S "THE GREAT POLITICAL SUPERSTITION"

WITH COMMENTS BY

NICHOLAS MURRAY BUTLER

MR. BUTLER'S COMMENTS

THIS is one of the most trenchant and powerful of Herbert Spencer's essays on political subjects. He wrote with English conditions in mind, and some portions of his argument are not applicable to conditions as they existed and still exist in the United States, where civil liberty is defined in a written constitution and is protected by the courts from invasion alike by the stronger or more self-seeking individual and by the government itself. During recent years there has been a marked tendency in the United States to throw more emphasis on the action of government and to lay less stress on the importance of civil liberty than was formerly the case. The thoroughly obscurantist and reactionary doctrine is now taught—and curiously enough it is taught under the name of progress—that the individual has no rights save those which society confers upon him and that society may by majority vote to do what it pleases with him. This doctrine is the oldest prop of despotism and autocracy, and the despotism and autocracy is none the less despotic or autocratic because for an individual monarch there has been substituted a temporary and fortuitous majority.

The Great Political Superstition is that somewhere in the nation there is a sovereign who can do as he likes with the life, the occupation and the property of every individual citizen. In the last analysis this doctrine rests all government not upon right but upon force, and the devil may take the hindmost. It is difficult to conceive any form of political teaching more at variance than this, with the fundamental principles upon

which the American nation was founded and upon which it has been built up. Those fundamental principles received their classic statement in these words from the Declaration of Independence:

"We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness."

These natural rights, which are set forth in the Declaration of Independence and which are amplified and defined in the Constitution of the United States, are an attribute of human personality. A human being is a person and a person is an end and not a means to an end. Personality is morally inviolable, and into its sacred precincts no despot, whether monarch or majority, has any right to enter.

The amazing notion that there is no such thing as privacy, that all of a man's doings and sayings and thinkings and havings are matters of public concern and are rightfully subject to public inspection and control, is the determined enemy of personal freedom and of civil liberty.

The tendencies which Herbert Spencer was combating when he wrote *The Great Political Superstition* are much stronger now than they were then. It is true that in his zeal for the thesis which he was upholding, Spencer went too far and laid down a doctrine of *laissez faire* that is not only unnecessary to personal

freedom and to civil liberty, but that stands in the way of that collective action and that collective responsibility in which personality finds its fullest opportunity for expression and for exercise. Nevertheless, Spencer's warnings are important for the people of the United States in this day and generation. He abhorred, and we should abhor, the creation of a great army of functionaries, paid by the state, withdrawn from the producing classes, to do clumsily and ineffectively what private initiative and private enterprise can do far more effectively and with much better results to the public interest. Experience has marked off with some precision and definiteness the field in which governmental action is expedient or wise, and in which it may be carried on without interference with the widest opportunity of the individual citizen. The burden of proof is always on those who would transfer any form of activity from the field of liberty to the field of government. The piling up of huge mountains of public indebtedness, which some day will have to be either paid or repudiated, is a monument to governmental recklessness, wastefulness and inefficiency. The increasing recourse to indirect taxation to meet the cost of government conceals from the taxpayer the cost to him of the various enterprises that are so lightly entered upon.

The next generation and the generation after that will have a curiously different opinion and judgment of what Americanism means from that which their grandfathers and their fathers had, unless the great political superstition is displaced. Legislatures are now judged not by the wisdom of their enactments, but by their number. Men rise in their places in legislative halls to propose statutes on the most trivial topics and to multiply crimes through difference of taste or judgment or of temperament. The desire to mind other people's business is becoming a disease, and with

its spread the real duty of government and the real tests of its effectiveness are being lost sight of. The field of government is wide enough and important enough to occupy the best minds of the nation on truly public concerns and in the solution of truly public problems. Surely there is no need to turn aside to re-enact the sumptuary laws of long ago and to regulate in the minutest way all sorts and kinds of activities which are far better alone. Nature's cure for most social and political diseases is better than man's, and without the strongest reasons the government should withhold its hand from everything that is not, by substantially common consent, a matter of governmental concern and governmental action.

The restriction of governmental control does not mean the loss of public oversight. It must not be forgotten that all public men are not officials; that all public action is not governmental; and that all public expression is not to be found in statutes and in judicial decisions. Those men, those acts and those expressions are public, whether made by men in private station or not, which voice the reflection, the feeling and the aspiration of the public. Public control through the enforcement of moral standards and through the approval or disapproval of public opinion is far more effective than governmental control through penal statute and police regulation. The whole aim and purpose of public education is to help men to help themselves, to develop initiative, to seek out and to train capacity and to build up a generation of good citizens. The more our social and political system entrusts to the sphere of civil liberty, the more it calls upon individual citizens for effort and for service, the richer and the fuller will be its life.

Herbert Spencer's political philosophy in all its details is certainly not suited to the United States of 1915; but, on the other hand, his words of warning are

just as much needed now and here as they were needed in England a generation ago.

THE GREAT POLITICAL SUPERSTITION

HERBERT SPENCER

The great political superstition of the past was the divine right of kings. The great political superstition of the present is the divine right of parliaments. The oil of anointing seems unawares to have dripped from the head of the one on to the heads of the many, and given sacredness to them also and to their decrees.

However irrational we may think the earlier of these beliefs, we must admit that it was more consistent than is the latter. Whether we go back to times when the king was a god, or to times when he was a descendant of a god, or to times when he was god-appointed, we see good reason for passive obedience to his will. When, as under Louis XIV., theologians like Bossuet taught that kings "are gods, and share in a manner the Divine independence," or when it was thought, as by our own Tory party in old days, that "the monarch was the delegate of heaven;" it is clear that, given the premise, the inevitable conclusion was that no bounds could be set to governmental commands. But for the modern belief such a warrant does not exist. Making no pretension to divine descent or divine appointment, a legislative body can show no supernatural justification for its claim to unlimited authority; and no natural justification has ever been attempted. Hence, belief in its unlimited authority is without that consistency which of old characterized belief in a king's unlimited authority.

It is curious how commonly men continue to hold in fact, doctrines which they have rejected in name—re-

taining the substance after they have abandoned the form. In Theology an illustration is supplied by Carlyle, who, in his student days, giving up, as he thought, the creed of his fathers, rejected its shell only, keeping the contents; and was proved by his conceptions of the world, and man, and conduct, to be still among the sternest of Scotch Calvinists. Similarly, Science furnishes an instance in one who united naturalism in Geology with supernaturalism in Biology—Sir Charles Lyell. While, as the leading expositor of the uniformitarian theory in Geology, he ignored only the Mosaic cosmogony, he long defended that belief in special creations of organic types, for which no other source than the Mosaic cosmogony could be assigned; and only in the latter part of his life surrendered to the arguments of Mr. Darwin. In Politics, as above implied, we have an analogous case. The tacitly-asserted doctrine, common to Tories, Whigs, and Radicals, that governmental authority is unlimited, dates back to times when the law-giver was supposed to have a warrant from God; and it survives still, though the belief that the law-giver has God's warrant has died out. "Oh, an Act of Parliament can do anything," is the reply made to a citizen who questions the legitimacy of some arbitrary State-interference; and the citizen stands paralyzed. It does not occur to him to ask the how, and the when, and the whence, of this asserted omnipotence bounded only by physical impossibilities.

Here we will take leave to question it. In default of the justification, once logically valid, that the ruler on Earth being a deputy of the ruler in Heaven, submission to him in all things is a duty, let us ask what reason there is for asserting the duty of submission in all things to a ruling power, constitutional or republican, which has no Heavenly-derived supremacy. Evidently this inquiry commits us to a criticism of past and present theories concerning political authority. To revive

questions supposed to be long since settled, may be thought to need some apology; but there is a sufficient apology in the implication above made clear, that the theory commonly accepted is ill-based or unbased.

The notion of sovereignty is that which first presents itself; and a critical examination of this notion, as entertained by those who do not assume the supernatural origin of sovereignty, carries us back to the arguments of Hobbes.

Let us grant Hobbes's postulate that, "during the time men live without a common power to keep them all in awe, they are in that condition which is called war . . . of every man against every man;" [1] though this is not true, since there are some small uncivilized societies in which, without any "common power to keep them all in awe," men maintain peace and harmony better than it is maintained in societies where such a power exists. Let us suppose him to be right, too, in assuming that the rise of a ruling man over associated men, results from their desires to preserve order among themselves; though, in fact, it habitually arises from the need for subordination to a leader in war, defensive or offensive, and has originally no necessary, and often no actual, relation to the preservation of order among the combined individuals. Once more, let us admit the indefensible assumption that to escape the evils of chronic conflicts, which must otherwise continue among them, the members of a community enter into a "pact or covenant," by which they all bind themselves to surrender their primitive freedom of action, and subordinate themselves to the will of an autocrat agreed upon: [2] accepting, also, the implication that their descendants for ever are bound by the covenant which remote ancestors made for them. Let us, I say, not ob-

[1] T. Hobbes, *Collected Works,* vol. iii, pp. 112-13.
[2] *Ibid.,* p. 159.

ject to these data, but pass to the conclusions Hobbes draws. He says:—

"For where no covenant hath preceded, there hath no right been transferred, and every man has a right to everything; and consequently, no action can be unjust. But when a covenant is made, then to break it is *unjust:* and the definition of INJUSTICE, is no other than *the not performance of covenant.* . . . Therefore before the names of just and unjust can have place, there must be some coercive power, to compel men equally to the performance of their covenants, by the terror of some punishment, greater than the benefit they expect by the breach of their covenant." [1]

Were people's characters in Hobbes's day really so bad as to warrant his assumption that none would perform their covenants in the absence of a coercive power and threatened penalties? In our day "the names of just and unjust can have place" quite apart from recognition of any coercive power. Among my friends I could name several whom I would implicitly trust to perform their covenants without any "terror of such punishment;" and over whom the requirements of justice would be as imperative in the absence of a coercive power as in its presence. Merely noting, however, that this unwarranted assumption vitiates Hobbes's argument for State-authority, and accepting both his premises and conclusion, we have to observe two significant implications. One is that State-authority as thus derived, is a means to an end, and has no validity save as subserving that end: if the end is not subserved, the authority, by the hypothesis, does not exist. The other is that the end for which the authority exists, as thus specified, is the enforcement of justice—the maintenance of equitable relations. The reasoning

[1] Hobbes, *Collected Works,* vol. iii, pp. 130-1.

yields no warrant for other coercion over citizens than that which is required for preventing direct aggressions, and those indirect aggressions constituted by breaches of contract; to which, if we add protection against external enemies, the entire function implied by Hobbes's derivation of sovereign authority is comprehended.

Hobbes argued in the interests of absolute monarchy. His modern admirer, Austin, had for his aim to derive the authority of law from the unlimited sovereignty of one man, or a number of men, small or large compared with the whole community. Austin was originally in the army; and it has been truly remarked that "the permanent traces left" may be seen in his *Province of Jurisprudence.* When, undeterred by the exasperating pedantries—the endless distinctions and definitions and repetitions—which served but to hide his essential doctrines, we ascertain what these are, it becomes manifest that he assimilates civil authority to military authority; taking for granted that the one, as the other, is above question in respect of both origin and range. To get justification for positive law, he takes us back to the absolute sovereignty of the power imposing it—a monarch, an aristocracy, or that larger body of men who have votes in a democracy; for such a body also, he styles the sovereign, in contrast with the remaining portion of the community which, from incapacity or other cause, remains subject. And having affirmed, or, rather, taken for granted, the unlimited authority of the body, simple or compound, small or large, which he styles sovereign, he, of course, has no difficulty in deducing the legal validity of its edicts, which he calls positive law. But the problem is simply moved a step further back and there left unsolved. The true question is—Whence the sovereignty? What is the assignable warrant for this unqualified supremacy assumed by one, or by a small number, or by a

large number, over the rest? A critic might fitly say—"We will dispense with your process of deriving positive law from unlimited sovereignty: the sequence is obvious enough. But first prove your unlimited sovereignty."

To this demand there is no response. Analyze his assumption, and the doctrine of Austin proves to have no better basis than that of Hobbes. In the absence of admitted divine descent or appointment, neither single-headed ruler nor many-headed ruler can produce such credentials as the claim to unlimited sovereignty implies.

"But surely," will come in deafening chorus the reply, "there is the unquestionable right of the majority, which gives unquestionable right to the parliament it elects."

Yes, now we are coming down to the root of the matter. The divine right of parliaments means the divine right of majorities. The fundamental assumption made by legislators and people alike, is that a majority has powers which have no bounds. This is the current theory which all accept without proof as a self-evident truth. Nevertheless, criticism will, I think, show that this current theory requires a radical modification.

In an essay on "Railway Morals and Railway Policy," published in the *Edinburgh Review* for October, 1854, I had occasion to deal with the question of a majority's powers as exemplified in the conduct of public companies; and I cannot better prepare the way for conclusions presently to be drawn, than by quoting a passage from it:—

"Under whatever circumstances, or for whatever ends, a number of men co-operate, it is held that if difference of opinion arises among them, justice requires that the will of the greater number shall be executed rather than that of the smaller number; and this

rule is supposed to be uniformly applicable, be the question at issue what it may. So confirmed is this conviction, and so little have the ethics of the matter been considered, that to most this mere suggestion of a doubt will cause some astonishment. Yet it needs but a brief analysis to show that the opinion is little better than a political superstition. Instances may readily be selected which prove, by *reductio ad absurdum*, that the right of a majority is a purely conditional right, valid only within specific limits. Let us take a few. Suppose that at the general meeting of some philanthropic association, it was resolved that in addition to relieving distress the association should employ home-missionaries to preach down popery. Might the subscriptions of Catholics, who had joined the body with charitable views, be rightfully used for this end? Suppose that of the members of a book-club, the greater number, thinking that under existing circumstances rifle-practice was more important than reading, should decide to change the purpose of their union, and to apply the funds in hand for the purchase of powder, ball, and targets. Would the rest be bound by this decision? Suppose that under the excitement of news from Australia, the majority of a Freehold Land Society should determine, not simply to start in a body for the gold-diggings, but to use their accumulated capital to provide outfits. Would this appropriation of property be just to the minority? and must these join the expedition? Scarcely any one would venture an affirmative answer even to the first of these questions; much less to the others. And why? Because every one must perceive that by uniting himself with others, no man can equitably be betrayed into acts utterly foreign to the purpose for which he joined them. Each of these supposed minorities would properly reply to those seeking to coerce them:—'We combined with you for a defined object; we gave money and time for

the furtherance of that object; on all questions thence arising we tacitly agreed to conform to the will of the greater number; but we did not agree to conform on any other questions. If you induce us to join you by professing a certain end, and then undertake some other end of which we were not apprised, you obtain our support under false pretences; you exceed the expressed or understood compact to which we committed ourselves; and we are no longer bound by your decisions.' Clearly this is the only rational interpretation of the matter. The general principle underlying the right government of every incorporated body, is, that its members contract with one another severally to submit to the will of the majority in all matters concerning the fulfilment of the objects for which they are incorporated; but in no others. To this extent only can the contract hold. For as it is implied in the very nature of a contract, that those entering into it must know what they contract to do; and as those who unite with others for a specified object, cannot contemplate all the unspecified objects which it is hypothetically possible for the union to undertake; it follows that the contract entered into cannot extend to such unspecified objects. And if there exists no expressed or understood contract between the union and its members respecting unspecified objects, then for the majority to coerce the minority into undertaking them, is nothing less than gross tyranny."

Naturally, if such a confusion of ideas exists in respect of the powers of a majority where the deed of incorporation tacitly limits those powers, still more must there exist such a confusion where there has been no deed of incorporation. Nevertheless the same principle holds. I again emphasize the proposition that the members of an incorporated body are bound "severally to submit to the will of the majority *in all mat-*

ters concerning the fulfilment of the objects for which they are incorporated; but in no others." And I contend that this holds of an incorporated nation as much as of an incorporated company.

"Yes, but," comes the obvious rejoinder, "as there is no deed by which the members of a nation are incorporated—as there neither is, nor ever was, a specification of purposes for which the union was formed, there exist no limits; and, consequently, the power of the majority is unlimited."

Evidently it must be admitted that the hypothesis of a social contract, either under the shape assumed by Hobbes or under the shape assumed by Rousseau, is baseless. Nay more, it must be admitted that even had such a contract once been formed, it could not be binding on the posterity of those who formed it. Moreover, if any say that in the absence of those limitations to its powers which a deed of incorporation might imply, there is nothing to prevent a majority from imposing its will on a minority by force, assent must be given —an assent, however, joined with the comment that if the superior force of the majority is its justification, then the superior force of a despot backed by an adequate army, is also justified; the problem lapses. What we here seek is some higher warrant for the subordination of minority to majority than that arising from inability to resist physical coercion. Even Austin, anxious as he is to establish the unquestionable authority of positive law, and assuming, as he does, an absolute sovereignty of some kind, monarchic, aristocratic, constitutional, or popular, as the source of its unquestionable authority, is obliged, in the last resort, to admit a moral limit to its action over the community. While insisting, in pursuance of his rigid theory of sovereignty, that a sovereign body originating from the people "is *legally* free to abridge their political liberty, at its own pleasure or discretion," he allows that "a

government may be hindered by *positive morality* from abridging the political liberty which it leaves or grants to its subjects." [1] Hence, we have to find, not a physical justification, but a moral justification, for the supposed absolute power of the majority.

This will at once draw forth the rejoinder—"Of course, in the absence of any agreement, with its implied limitations, the rule of the majority is unlimited; because it is more just that the majority should have its way than that the minority should have its way." A very reasonable rejoinder this seems until there comes the re-rejoinder. We may oppose to it the equally tenable proposition that, in the absence of an agreement, the supremacy of a majority over a minority does not exist at all. It is co-operation of some kind, from which there arise these powers and obligations of majority and minority; and in the absence of any agreement to co-operate, such powers and obligations are also absent.

Here the argument apparently ends in a deadlock. Under the existing condition of things, no moral origin seems assignable, either for the sovereignty of the majority or for the limitation of its sovereignty. But further consideration reveals a solution of the difficulty. For if, dismissing all thought of any hypothetical agreement to co-operate heretofore made, we ask what would be the agreement into which citizens would now enter with practical unanimity, we get a sufficiently clear answer; and with it a sufficiently clear justification for the rule of the majority inside a certain sphere but not outside that sphere. Let us first observe a few of the limitations which at once become apparent.

Were all Englishmen now asked if they would agree to co-operate for the teaching of religion, and would give the majority power to fix the creed and the forms

[1] *The Province of Jurisprudence Determined.* Second edition, p. 241.

of worship, there would come a very emphatic "No" from a large part of them. If, in pursuance of a proposal to revive sumptuary laws, the inquiry were made whether they would bind themselves to abide by the will of the majority in respect of the fashions and qualities of their clothes, nearly all of them would refuse. In like manner if (to take an actual question of the day) people were polled to ascertain whether, in respect of the beverages they drank, they would accept the decision of the greater number, certainly half, and probably more than half, would be unwilling. Similarly with respect to many other actions which most men now-a-days regard as of purely private concern. Whatever desire there might be to co-operate for carrying on, or regulating, such actions, would be far from a unanimous desire. Manifestly, then, had social co-operation to be commenced by ourselves, and had its purposes to be specified before consent to co-operate could be obtained, there would be large parts of human conduct in respect of which co-operation would be declined; and in respect of which, consequently, no authority by the majority over the minority could be rightly exercised.

Turn now to the converse question—For what ends would all men agree to co-operate? None will deny that for resisting invasion the agreement would be practically unanimous. Excepting only the Quakers, who, having done highly useful work in their time, are now dying out, all would unite for defensive war (not, however, for offensive war); and they would, by so doing, tacitly bind themselves to conform to the will of the majority in respect to measures directed to that end. There would be practical unanimity, also, in the agreement to co-operate for defence against internal enemies as against external enemies. Omitting criminals, all must wish to have person and property adequately protected. Each citizen desires to pre-

serve his life, to preserve things which conduce to maintenance and enjoyment of his life, and to preserve intact his liberties both of using these things and getting further such. It is obvious to him that he cannot do all this if he acts alone. Against foreign invaders he is powerless unless he combines with his fellows; and the business of protecting himself against domestic invaders, if he did not similarly combine, would be alike onerous, dangerous, and inefficient. In one other cooperation all are interested—use of the territory they inhabit. Did the primitive communal ownership survive, there would survive the primitive communal control of the uses to be made of land by individuals or by groups of them; and decisions of the majority would rightly prevail respecting the terms on which portions of it might be employed for raising food, for making means of communication, and for other purposes. Even at present, though the matter has been complicated by the growth of private landownership, yet, since the State is still supreme owner (every landlord being in law a tenant of the Crown) able to resume possession, or authorize compulsory purchase, at a fair price; the implication is that the will of the majority is valid respecting the modes in which, and conditions under which, parts of the surface or sub-surface, may be utilized: involving certain agreements made on behalf of the public with private persons and companies.

Details are not needful here; nor is it needful to discuss that border region lying between these two classes of cases, and to say how much is included in the last and how much is excluded with the first. For present purposes, it is sufficient to recognize the undeniable truth that there are numerous kinds of actions in respect of which men would not, if they were asked, agree with anything like unanimity to be bound by the will of the majority; while there are some kinds of actions in respect of which they would almost unanimously agree

to be thus bound. Here, then, we find a definite warrant for enforcing the will of the majority within certain limits, and a definite warrant for denying the authority of its will beyond those limits.

But evidently, when analyzed, the question resolves itself into the further question—What are the relative claims of the aggregate and of its units? Are the rights of the community universally valid against the individual? or has the individual some rights which are valid against the community? The judgment given on this point underlies the entire fabric of political convictions formed, and more especially those convictions which concern the proper sphere of government. Here, then, I propose to revive a dormant controversy, with the expectation of reaching a different conclusion from that which is fashionable.

Says Professor Jevons, in his work, *The State in Relation to Labor*,—"The first step must be to rid our minds of the idea that there are any such things in social matters as abstract rights." Of like character is the belief expressed by Mr. Matthew Arnold in his article on Copyright:—"An author has no natural right to a property in his production. But then neither has he a natural right to anything whatever which he may produce or acquire." [1] So, too, I recently read in a weekly journal of high repute, that "to explain once more that there is no such thing as 'natural right' would be a waste of philosophy." And the view expressed in these extracts is commonly uttered by statesmen and lawyers in a way implying that only the unthinking masses hold any other.

One might have expected that utterances to this effect would have been rendered less dogmatic by the knowledge that a whole school of legists on the Continent, maintains a belief diametrically opposed to that

[1] *Fortnightly Review*, 1880, vol. xxvii, p. 322.

maintained by the English school. The idea of *Naturrecht* is the root-idea of German jurisprudence. Now whatever may be the opinion held respecting German philosophy at large, it cannot be characterized as shallow. A doctrine current among a people distinguished above all others as laborious inquirers, and certainly not to be classed with superficial thinkers, should not be dismissed as though it were nothing more than a popular delusion. This, however, by the way. Along with the proposition denied in the above quotations, there goes a counter-proposition affirmed. Let us see what it is; and what results when we go behind it and seek its warrant.

On reverting to Bentham, we find this counter-proposition openly expressed. He tells us that government fulfils its office "by creating rights which it confers upon individuals: rights of personal security; rights of protection for honor; rights of property;" &c.[1] Were this doctrine asserted as following from the divine right of kings, there would be nothing in it manifestly incongruous. Did it come to us from ancient Peru, where the Ynca "was the source from which everything flowed;" [2] or from Shoa (Abyssinia), where "of their persons and worldly substance he [the King] is absolute master;" [3] or from Dahome, where "all men are slaves to the king;" [4] it would be consistent enough. But Bentham, far from being an absolutist like Hobbes, wrote in the interests of popular rule. In his *Constitutional Code* [5] he fixes the sovereignty in the whole people; arguing that it is best "to give the sovereign power to the largest possible portion of those whose greatest happiness is the proper and chosen object," because "this proportion is more apt than any other

[1] Bentham's Works (Bowring's edition), vol. i, p. 301.
[2] W. H. Prescott, *Conquest of Peru*, bk. i, ch. i.
[3] J. Harris, *Highlands of Æthiopio*, ii, p. 94.
[4] R. F. Burton, *Mission to Gelele, King of Dahome*, i, p. 226.
[5] Bentham's Works, vol. ix, p. 97.

that can be proposed" for achievement of that object.

Mark, now, what happens when we put these two doctrines together. The sovereign people jointly appoint representatives, and so create a government; the government thus created, creates rights; and then, having created rights, it confers them on the separate members of the sovereign people by which it was itself created. Here is a marvellous piece of political legerdemain! Mr. Matthew Arnold, contending, in the article above quoted, that "property is the creation of law," tells us to beware of the "metaphysical phantom of property in itself." Surely, among metaphysical phantoms the most shadowy is this which supposes a thing to be obtained by creating an agent, which creates the thing, and then confers the thing on its own creator!

From whatever point of view we consider it, Bentham's proposition proves to be unthinkable. Government, he says, fulfils its office "by creating rights." Two meanings may be given to the word "creating." It may be supposed to mean the production of something out of nothing; or it may be supposed to mean the giving form and structure to something which already exists. There are many who think that the production of something out of nothing cannot be conceived as effected even by omnipotence; and probably none will assert that the production of something out of nothing is within the competence of a human government. The alternative conception is that a human government creates only in the sense that it shapes something pre-existing. In that case, the question arises—"What is the something pre-existing which it shapes?" Clearly the word "creating" begs the whole question—passes off an illusion on the unwary reader. Bentham was a stickler for definiteness of expression, and in his *Book of Fallacies* has a chapter on "Impostor-terms." It is curious that he should have furnished

so striking an illustration of the perverted belief which an impostor-term may generate.

But now let us overlook these various impossibilities of thought, and seek the most defensible interpretation of Bentham's view.

It may be said that the totality of all powers and rights, originally exists as an undivided whole in the sovereign people; and that this undivided whole is given in trust (as Austin would say) to a ruling power, appointed by the sovereign people, for the purpose of distribution. If, as we have seen, the proposition that rights are created is simply a figure of speech; then the only intelligible construction of Bentham's view is that a multitude of individuals, who severally wish to satisfy their desires, and have, as an aggregate, possession of all the sources of satisfaction, as well as power over all individual actions, appoint a government, which declares the ways in which, and the conditions under which, individual actions may be carried on and the satisfactions obtained. Let us observe the implications. Each man exists in two capacities. In his private capacity he is subject to the government. In his public capacity he is one of the sovereign people who appoint the government. That is to say, in his private capacity he is one of those to whom rights are given; and in his public capacity he is one of those who, through the government they appoint, give the rights. Turn this abstract statement into a concrete statement, and see what it means. Let the community consist of a million men, who, by the hypothesis, are not only joint possessors of the inhabited region, but joint possessors of all liberties of action and appropriation: the only right recognized being that of the aggregate to everything. What follows? Each person, while not owning any product of his own labor, has, as a unit in the sovereign body, a millionth part of the ownership of the products of all others' labor. This is an unavoidable

implication. As the government, in Bentham's view, is but an agent; the rights it confers are rights given to it in trust by the sovereign people. If so, such rights must be possessed *en bloc* by the sovereign people before the government, in fulfilment of its trust, confers them on individuals; and, if so, each individual has a millionth portion of these rights in his public capacity, while he has no rights in his private capacity. These he gets only when all the rest of the million join to endow him with them; while he joins to endow with them every other member of the million!

Thus, in whatever way we interpret it, Bentham's proposition leaves us in a plexus of absurdities.

Even though ignoring the opposite opinion of German and French writers on jurisprudence, and even without an analysis which proves their own opinion to be untenable, Bentham's disciples might have been led to treat less cavalierly the doctrine of natural rights. For sundry groups of social phenomena unite to prove that this doctrine is well warranted, and the doctrine they set against it unwarranted.

Tribes all over the world show us that before definite government arises, conduct is regulated by customs. The Bechuanas are controlled by "long-acknowledged customs." [1] Among the Koranna Hottentots, who only "tolerate their chiefs rather than obey them," [2] "when ancient usages are not in the way, every man seems to act as is right in his own eyes." [3] The Araucanians are guided by "nothing more than primordial usages or tacit conventions." [4] Among the Kirghizes the judg-

[1] W. J. Burchell, *Travels into the Interior of Southern Africa,* vol. i, p. 544.

[2] Arbousset and Daumas, *Voyage of Exploration,* p. 27.

[3] G. Thompson, *Travels and Adventures in Southern Africa,* vol. ii, p. 30.

[4] G. A. Thompson, *Alcedo's Geographical and Historical Dictionary of America,* vol. i, p. 405.

ments of the elders are based on "universally-recognized customs." [1] Similarly of the Dyaks, Rajah Brooke says that "custom seems simply to have become the law; and breaking custom leads to a fine." [2] So sacred are immemorial customs with the primitive man, that he never dreams of questioning their authority; and when government arises, its power is limited by them. In Madagascar the king's word suffices only "where there is no law, custom, or precedent." [3] Raffles tells us that in Java "the customs of the country" [4] restrain the will of the ruler. In Sumatra, too, the people do not allow their chiefs to "alter their ancient usages." [5] Nay, occasionally, as in Ashantee, "the attempt to change some customs" has caused a king's dethronement.[6] Now, among the customs which we thus find to be pre-governmental, and which subordinate governmental power when it is established, are those which recognize certain individual rights—rights to act in certain ways and possess certain things. Even where the recognition of property is least developed, there is proprietorship of weapons, tools, and personal ornaments; and, generally, the recognition goes far beyond this. Among such North-American Indians as the Snakes, who are without Government, there is private ownership of horses. By the Chippewayans, "who have no regular government," game taken in private traps "is considered as private property." [7] Kindred facts concerning huts, utensils, and other personal belongings, might be brought in evidence from accounts of the Ahts, the Comanches, the Esquimaux, and the Brazilian Indians. Among various uncivilized peoples,

[1] Alex. Michie, *Siberian Overland Route,* p. 248.
[2] C. Brooke, *Ten Years in Saráwak,* vol. i, p. 129.
[3] W. Ellis, *History of Madagascar,* vol. i, p. 377.
[4] Sir T. S. Raffles, *History of Java,* i, 274.
[5] W. Marsden, *History of Sumatra,* p. 217.
[6] J. Beecham, *Ashantee and the Gold Coast,* p. 90.
[7] H. R. Schoolcraft, *Expedition to the Sources of the Mississippi River,* v. 177.

custom has established the claim to the crop grown on a cleared plot of ground, though not to the ground itself; and the Todas, who are wholly without political organization, make a like distinction between ownership of cattle and of land. Kolff's statement respecting "the peaceful Arafuras" well sums up the evidence. They "recognize the right of property in the fullest sense of the word, without there being any [other] authority among them than the decisions of their elders, according to the customs of their forefathers." [1] But even without seeking proofs among the uncivilized, sufficient proofs are furnished by early stages of the civilized. Bentham and his followers seem to have forgotten that our own common law is mainly an embodiment of "the customs of the realm." It did but give definite shape to that which it found existing. Thus, the fact and the fiction are exactly opposite to what they allege. The fact is that property was well recognized before law existed; the fiction is that "property is the creation of law." These writers and statesmen who with so much scorn undertake to instruct the ignorant herd, themselves stand in need of instruction.

Considerations of another class might alone have led them to pause. Were it true, as alleged by Bentham, that Government fulfils its office "by creating rights which it confers on individuals;" then, the implication would be, that there should be nothing approaching to uniformity in the rights conferred by different governments. In the absence of a determining cause overruling their decisions, the probabilities would be many to one against considerable correspondence among their decisions. But there is very great correspondence. Look where we may, we find that governments interdict the same kinds of aggressions; and, by implication, recognize the same kinds of claims. They habitually forbid homicide, theft, adultery: thus asserting that

[1] G. W. Earl's *Kolff's Voyage of the Dourga,* p. 161.

citizens may not be trespassed against in certain ways. And as society advances, minor individual claims are protected by giving remedies for breach of contract, libel, false witness, &c. In a word, comparisons show that though codes of law differ in their details as they become elaborated, they agree in their fundamentals. What does this prove? It cannot be by chance that they thus agree. They agree because the alleged creating of rights was nothing else than giving formal sanction and better definition to those assertions of claims and recognitions of claims which naturally originate from the individual desires of men who have to live in presence of one another.

Comparative Sociology discloses another group of facts having the same implication. Along with social progress it becomes in an increasing degree the business of the State, not only to give formal sanction to men's rights, but also to defend them against aggressors. Before permanent government exists, and in many cases after it is considerably developed, the rights of each individual are asserted and maintained by himself, or by his family. Alike among savage tribes at present, among civilized peoples in the past, and even now in unsettled parts of Europe, the punishment for murder is a matter of private concern; "the sacred duty of blood revenge" devolves on some one of a cluster of relatives. Similarly, compensations for aggressions on property and for injuries of other kinds, are in early states of society independently sought by each man or family. But as social organization advances, the central ruling power undertakes more and more to secure to individuals their personal safety, the safety of their possessions, and, to some extent, the enforcement of their claims established by contract. Originally concerned almost exclusively with defence of the society as a whole against other societies, or with conducting its attacks on other societies, Government

has come more and more to discharge the function of defending individuals against one another. It needs but to recall the days when men habitually carried weapons, or to bear in mind the greater safety to person and property achieved by improved police-administration during our own time, or to note the facilities now given for recovering small debts, to see that the insuring to each individual the unhindered pursuit of the objects of life, within limits set by others' like pursuits, is increasingly recognized as a duty of the State. In other words, along with social progress, there goes not only a fuller recognition of these which we call natural rights, but also a better enforcement of them by Government: Government becomes more and more the servant to these essential pre-requisites for individual welfare.

An allied and still more significant change has accompanied this. In early stages, at the same time that the State failed to protect the individual against aggression, it was itself an aggressor in multitudinous ways. Those ancient societies which advanced far enough to leave records, having all been conquering societies, show us everywhere the traits of the militant *régime*. As, for the effectual organization of fighting bodies, the soldiers, absolutely obedient, must act independently only when commanded to do it; so, for the effectual organization of fighting societies, citizens must have their individualities subordinated. Private claims are overridden by public claims; and the subject loses much of his freedom of action. One result is that the system of regimentation, pervading the society as well as the army, causes detailed regulation of conduct. The dictates of the ruler, sanctified by ascription of them to his divine ancestor, are unrestrained by any conception of individual liberty; and they specify men's actions to an unlimited extent—down to kinds of food eaten, modes of preparing them, shaping of beards,

fringing of dresses, sowing of grain, &c. This omnipresent control, which the ancient Eastern nations in general exhibited, was exhibited also in large measure by the Greeks; and was carried to its greatest pitch in the most militant city, Sparta. Similarly during mediæval days throughout Europe, characterized by chronic warfare with its appropriate political forms and ideas, there were scarcely any bounds to Governmental interference; agriculture, manufactures, trades, were regulated in detail; religious beliefs and observances were imposed; and rulers said by whom alone furs might be worn, silver used, books issued, pigeons kept, &c., &c. But along with increase of industrial activities, and implied substitution of the *régime* of contract for the *régime* of status, and growth of associated sentiments, there went (until the recent reaction accompanying reversion to militant activity) a decrease of meddling with people's doings. Legislation gradually ceased to regulate the cropping of fields, or dictate the ratio of cattle to acreage, or specify modes of manufacture and materials to be used, or fix wages and prices, or interfere with dresses and games (except where there was gambling), or put bounties and penalties on imports or exports, or prescribe men's beliefs, religious or political, or prevent them from combining as they pleased, or travelling where they liked. That is to say, throughout a large range of conduct, the right of the citizen to uncontrolled action has been made good against the pretensions of the State to control him. While the ruling agency has increasingly helped him to exclude intruders from that private sphere in which he pursues the objects of life, it has itself retreated from that sphere; or, in other words—decreased its intrusions.

Not even yet have we noted all the classes of facts which tell the same story. It is told afresh in the improvements and reforms of law itself; as well as in the

admissions and assertions of those who have effected them. "So early as the fifteenth century," says Professor Pollock, "we find a common-law judge declaring that, as in a case unprovided for by known rules the civilians and canonists devise a new rule according to 'the law of nature which is the ground of all laws,' the Courts of Westminster can and will do the like." [1] Again, our system of Equity, introduced and developed as it was to make up for the shortcomings of Common-law, or rectify its inequities, proceeded throughout on a recognition of men's claims considered as existing apart from legal warrant. And the changes of law now from time to time made after resistance, are similarly made in pursuance of current ideas concerning the requirements of justice; ideas which, instead of being derived from the law, are opposed to the law. For example, that recent Act which gives to a married woman a right of property in her own earnings, evidently originated in the consciousness that the natural connection between labor expended and benefit enjoyed, is one which should be maintained in all cases. The reformed law did not create the right, but recognition of the right created the reformed law.

Thus, historical evidences of five different kinds unite in teaching that, confused as are the popular notions concerning rights, and including, as they do, a great deal which should be excluded, yet they shadow forth a truth.

It remains now to consider the original source of this truth. In a previous paper I have spoken of the open secret, that there can be no social phenomena but what, if we analyze them to the bottom, bring us down to the laws of life; and that there can be no true understanding of them without reference to the laws of life. Let us, then, transfer this question of natural rights

[1] "The Methods of Jurisprudence: an Introductory Lecture at University College, London," October 31, 1882.

from the court of politics to the court of science—the science of life. The reader need feel no alarm: the simplest and most obvious facts will suffice. We will contemplate first the general conditions to individual life; and then the general conditions to social life. We shall find that both yield the same verdict.

Animal life involves waste; waste must be met by repair; repair implies nutrition. Again, nutrition presupposes obtainment of food; food cannot be got without powers of prehension, and, usually, of locomotion; and that these powers may achieve their ends, there must be freedom to move about. If you shut up a mammal in a small space, or tie its limbs together, or take from it the food it has procured, you eventually, by persistence in one or other of these courses, cause its death. Passing a certain point, hindrance to the fulfilment of these requirements is fatal. And all this, which holds of the higher animals at large, of course holds of man.

If we adopt pessimism as a creed, and with it accept the implication that life in general being an evil should be put an end to, then there is no ethical warrant for these actions by which life is maintained: the whole question drops. But if we adopt either the optimist view or the meliorist view—if we say that life on the whole yields more pleasure than pain; or that it is on the way to become such that it will yield more pleasure than pain; then these actions by which life is maintained are justified, and there results a warrant for the freedom to perform them. Those who hold that life is valuable, hold, by implication, that men ought not to be prevented from carrying on life-sustaining activities. In other words, if it is said to be "right" that they should carry them on, then, by permutation, we get the assertion that they "have a right" to carry them on. Clearly the conception of "natural rights"

originates in recognition of the truth that if life is justifiable, there must be a justification for the performance of acts essential to its preservation; and, therefore, a justification for those liberties and claims which make such acts possible.

But being true of other creatures as of man, this is a proposition lacking ethical character. Ethical character arises only with the distinction between what the individual *may* do in carrying on his life-sustaining activities, and what he *may not* do. This distinction obviously results from the presence of his fellows. Among those who are in close proximity, or even some distance apart, the doings of each are apt to interfere with the doings of others; and in the absence of proof that some may do what they will without limit, while others may not, mutual limitation is necessitated. The non-ethical form of the right to pursue ends, passes into the ethical form, when there is recognized the difference between acts which can be performed without transgressing the limits, and others which cannot be so performed.

This, which is the *a priori* conclusion, is the conclusion yielded *a posteriori*, when we study the doings of the uncivilized. In its vaguest form, mutual limitation of spheres of action, and the ideas and the sentiments associated with it, are seen in the relations of groups to one another. Habitually there come to be established, certain bounds to the territories within which each tribe obtains its livelihood; and these bounds, when not respected, are defended. Among the Wood-Veddahs, who have no political organization, the small clans have their respective portions of forest; and "these conventional allotments are always honorably recognized." [1] Of the ungoverned tribes of Tasmania, we are told that "their hunting grounds were all de-

[1] Sir J. E. Tennant, *Ceylon: an Account of the Island, &c.*, ii, 440.

termined, and trespassers were liable to attack." [1] And, manifestly, the quarrels caused among tribes by intrusions on one another's territories, tend, in the long run, to fix bounds and to give a certain sanction to them. As with each inhabited area, so with each inhabiting group. A death in one, rightly or wrongly ascribed to somebody in another, prompts "the sacred duty of blood-revenge;" and though retaliations are thus made chronic, some restraint is put on new aggressions. Like causes worked like effects in those early stages of civilized societies, during which families or clans, rather than individuals, were the political units; and during which each family or clan had to maintain itself and its possessions against others such. These mutual restraints, which in the nature of things arise between small communities, similarly arise between individuals in each community; and the ideas and usages appropriate to the one are more or less appropriate to the other. Though within each group there is ever a tendency for the stronger to aggress on the weaker; yet, in most cases, consciousness of the evils resulting from aggressive conduct serves to restrain. Everywhere among primitive peoples, trespasses are followed by counter-trespasses. Says Turner of the Tannese, "adultery and some other crimes are kept in check by the fear of club-law." [2] Fitzroy tells us that the Patagonian, "if he does not injure or offend his neighbor, is not interfered with by others;" [3] personal vengeance being the penalty for injury. We read of the Uapés that "they have very little law of any kind; but what they have is of strict retaliation—an eye for an eye and a tooth for a tooth." [4] And that the *lex talionis* tends to establish a distinction between what each member of the community may safely do and

[1] J. Bonwick, *Daily Life and Origin of the Tasmanians*, p. 83.
[2] *Nineteen Years in Polynesia*, p. 86.
[3] *Voyages of the Adventure and Beagle*, ii, 167.
[4] A. R. Wallace, *Travels on Amazon and Rio Negro*, p. 499.

what he may not safely do, and consequently to give sanctions to actions within a certain range but not beyond that range, is obvious. Though, says Schoolcraft of the Chippewayans, they "have no regular government, as every man is lord in his own family, they are influenced more or less by certain principles, which conduce to their general benefit":[1] one of the principles named being recognition of private property.

How mutual limitation of activities originates the ideas and sentiments implied by the phrase "natural rights," we are shown most distinctly by the few peaceful tribes which have either nominal governments or none at all. Beyond those facts which exemplify scrupulous regard for one another's claims among the Todas, Santals, Lepchas, Bodo, Chakmas, Jakuns, Arafuras, &c., we have the fact that the utterly uncivilized Wood-Veddahs, without any social organization at all, "think it perfectly inconceivable that any person should ever take that which does not belong to him, or strike his fellow, or say anything that is untrue."[2] Thus it becomes clear, alike from analysis of causes and observation of facts, that while the positive element in the right to carry on life-sustaining activities, originates from the laws of life, that negative element which gives ethical character to it, originates from the conditions produced by social aggregation.

So alien to the truth, indeed, is the alleged creation of rights by government, that, contrariwise, rights having been established more or less clearly before government arises, become obscured as government develops along with that militant activity which, both by the taking of slaves and the establishment of ranks, produces *status;* and the recognition of rights begins

[1] H. R. Schoolcraft, *Expedition to the Sources of the Mississippi,* v. 177.

[2] B. F. Hartshorne in *Fortnightly Review,* March, 1876. See also H. C. Sirr, *Ceylon and Ceylonese,* ii, 219.

again to get definiteness only as fast as militancy ceases to be chronic and governmental power declines.

When we turn from the life of the individual to the life of the society, the same lesson is taught us.

Though mere love of companionship prompts primitive men to live in groups, yet the chief prompter is experience of the advantages to be derived from co-operation. On what condition only can co-operation arise? Evidently on condition that those who join their efforts severally gain by doing so. If, as in the simplest cases, they unite to achieve something which each by himself cannot achieve, or can achieve less readily, it must be on the tacit understanding, either that they shall share the benefit (as when game is caught by a party of them), or that if one reaps all the benefit now (as in building a hut or clearing a plot), the others shall severally reap equivalent benefits in their turns. When, instead of efforts joined in doing the same thing, different things are effected by them—when division of labor arises, with accompanying barter of products, the arrangement implies that each in return for something which he has in superfluous quantity, gets an approximate equivalent of something which he wants. If he hands over the one and does not get the other, future proposals to exchange will meet with no response. There will be a reversion to that rudest condition in which each makes everything for himself. Hence the possibility of co-operation depends on fulfilment of contract, tacit or overt.

Now this which we see must hold of the very first step towards that industrial organization by which the life of a society is maintained, must hold more or less fully throughout its development. Though the militant type of organization, with its system of *status* produced by chronic war, greatly obscures these relations of contracts, yet they remain partially in force.

They still hold between freemen, and between the heads of those small groups which form the units of early societies; and, in a measure, they still hold within these small groups themselves; since survival of them as groups, implies such recognition of the claims of their numbers, even when slaves, that in return for their labors they get sufficiencies of food, clothing, and protection. And when, with diminution of warfare and growth of trade, voluntary co-operation more and more replaces compulsory co-operation, and the carrying on of social life by exchange under agreement, partially suspended for a time, gradually re-establishes itself; its re-establishment makes possible that vast elaborate industrial organization by which a great nation is sustained.

For in proportion as contracts are unhindered and the performance of them certain, the growth is great and the social life active. It is not now by one or other of two individuals who contract, that the evil effects of breach of contract are experienced. In an advanced society, they are experienced by entire classes of producers and distributors, which have arisen through division of labor; and, eventually, they are experienced by everybody. Ask on what condition it is that Birmingham devotes itself to manufacturing hardware, or part of Staffordshire to making pottery, or Lancashire to weaving cotton. Ask how the rural people who here grow wheat and there pasture cattle, find it possible to occupy themselves in their special businesses. These groups can severally thus act only if each gets from the others in exchange for its own surplus product, due shares of their surplus products. No longer directly effected by barter, this obtainment of their respective shares of one another's products is indirectly effected by money; and if we ask how each division of producers gets its due amount of the required money, the answer is—by fulfilment of contract.

If Leeds makes woollens and does not, by fulfilment of contract, receive the means of obtaining from agricultural districts the needful quantity of food, it must starve, and stop producing woollens. If South Wales smelts iron and there comes no equivalent agreed upon, enabling it to get fabrics for clothing, its industry must cease. And so throughout, in general and in detail. That mutual dependence of parts which we see in social organization, as in individual organization, is possible only on condition that while each other part does the particular kind of work it has become adjusted to, it receives its proportion of those materials required for repair and growth, which all the other parts have joined to produce: such proportion being settled by bargaining. Moreover, it is by fulfilment of contract that there is effected a balancing of all the various products to the various needs—the large manufacture of knives and the small manufacture of lancets; the great growth of wheat and the little growth of mustard-seed. The check on undue production of each commodity, results from finding that, after a certain quantity, no one will agree to take any further quantity on terms that yield an adequate money equivalent. And so there is prevented a useless expenditure of labor in producing that which society does not want.

Lastly, we have to note the still more significant fact that the condition under which only, any specialized group of workers can grow when the community needs more of its particular kind of work, is that contracts shall be free and fulfilment of them enforced. If when, from lack of material, Lancashire failed to supply the usual quantity of cotton-goods, there had been such interference with the contracts as prevented Yorkshire from asking a greater price for its woollens, which it was enabled to do by the greater demand for them, there would have been no temptation to put more capi-

tal into the woollen manufacture, no increase in the amount of machinery and number of artisans employed, and no increase of woollens: the consequence being that the whole community would have suffered from not having deficient cottons replaced by extra woollens. What serious injury may result to a nation if its members are hindered from contracting with one another, was well shown in the contrast between England and France in respect to railways. Here, though obstacles were at first raised by classes predominant in the legislature, the obstacles were not such as prevented capitalists from investing, engineers from furnishing directive skill, or contractors from undertaking works; and the high interest originally obtained on investments, the great profits made by contractors, and the large payments received by engineers, led to that drafting of money, energy, and ability, into railway-making, which rapidly developed our railway-system, to the enormous increase of our national prosperity. But when M. Thiers, then Minister of Public Works, came over to inspect, and having been taken about by Mr. Vignoles, said to him when leaving:—"I do not think railways are suited to France," [1] there resulted, from the consequent policy of hindering free contract, a delay of "eight or ten years" in that material progress which France experienced when railways were made.

What do these facts mean? They mean that for the healthful activity and due proportioning of those industries, occupations and professions, which maintain and aid the life of a society, there must, in the first place, be few restrictions on men's liberties to make agreements with one another, and there must, in the second place, be an enforcement of the agreements which they do make. As we have seen, the checks naturally arising to each man's actions when men become as-

[1] Address of C. B. Vignoles, Esq., F.R.S., on his election as President of the Institution of Civil Engineers, Session 1869-70, p. 53.

sociated, are those only which result from mutual limitation; and there consequently can be no resulting check to the contracts they voluntarily make: interference with these is interference with those rights to free action which remain to each when the rights of others are fully recognized. And then, as we have seen, enforcement of their rights implies enforcement of contracts made; since breach of contract is indirect aggression. If, when a customer on one side of the counter asks a shopkeeper on the other for a shilling's worth of his goods, and, while the shopkeeper's back is turned, walks off with the goods without leaving the shilling he tacitly contracted to give, his act differs in no essential way from robbery. In each such case the individual injured is deprived of something he possessed, without receiving the equivalent something bargained for; and is in the state of having expended his labor without getting benefit—has had an essential condition to the maintenance of life infringed.

Thus, then, it results that to recognize and enforce the rights of individuals, is at the same time to recognize and enforce the conditions to a normal social life. There is one vital requirement for both.

Before turning to those corollaries which have practical applications, let us observe how the special conclusions drawn converge to the one general conclusion originally foreshadowed—glancing at them in reversed order.

We have just found that the pre-requisite to individual life is in a double sense the pre-requisite to social life. The life of a society, in whichever of two senses conceived, depends on maintenance of individual rights. If it is nothing more than the sum of the lives of citizens, this implication is obvious. If it consists of those many unlike activities which citizens carry on in mutual dependence, still this aggregate impersonal life rises

or falls according as the rights of individuals are enforced or denied.

Study of men's politico-ethical ideas and sentiments, leads to allied conclusions. Primitive peoples of various types show us that before governments exist, immemorial customs recognize private claims and justify maintenance of them. Codes of law independently evolved by different nations, agree in forbidding certain trespasses on the persons, properties, and liberties of citizens; and their correspondences imply, not an artificial source for individual rights, but a natural source. Along with social development, the formulating in law of the rights pre-established by custom, becomes more definite and elaborate. At the same time, Government undertakes to an increasing extent the business of enforcing them. While it has been becoming a better protector, Government has been becoming less aggressive—has more and more diminished its intrusions on men's spheres of private action. And, lastly, as in past times laws were avowedly modified to fit better with current ideas of equity; so now, law-reformers are guided by ideas of equity which are not derived from law but to which law has to conform.

Here, then, we have a politico-ethical theory justified alike by analysis and by history. What have we against it? A fashionable counter-theory, purely dogmatic, which proves to be unjustifiable. On the one hand, while we find that individual life and social life both imply maintenance of the natural relation between efforts and benefits; we also find that this natural relation, recognized before Government existed, has been all along asserting and re-asserting itself, and obtaining better recognition in codes of law and systems of ethics. On the other hand, those who, denying natural rights, commit themselves to the assertion that rights are artificially created by law, are not only flatly contradicted by facts, but their assertion is self-destruc-

tive: the endeavor to substantiate it, when challenged, involves them in manifold absurdities.

Nor is this all. The re-institution of a vague popular conception in a definite form on a scientific basis, leads us to a rational view of the relation between the wills of majorities and minorities. It turns out that those co-operations in which all can voluntarily unite, and in the carrying on of which the will of the majority is rightly supreme, are co-operations for maintaining the conditions requisite to individual and social life. Defence of the society as a whole against external invaders, has for its remote end to preserve each citizen in possession of such means as he has for satisfying his desires, and in possession of such liberty as he has for getting further means. And defence of each citizen against internal invaders, from murderers down to those who inflict nuisances on their neighbors, has obviously the like end—an end desired by every one save the criminal and disorderly. Hence it follows that for maintenance of this vital principle, alike of individual life and social life, subordination of minority to majority is legitimate; as implying only such a trenching on the freedom and property of each, as is requisite for the better protecting of his freedom and property. At the same time it follows that such subordination is not legitimate beyond this; since, implying as it does a greater aggression upon the individual than is requisite for protecting him, it involves a breach of the vital principle which is to be maintained.

Thus we come round again to the proposition that the assumed divine right of parliaments, and the implied divine right of majorities, are superstitions. While men have abandoned the old theory respecting the source of State-authority, they have retained a belief in that unlimited extent of State-authority which rightly accompanied the old theory, but does not

rightly accompany the new one. Unrestricted power over subjects, rationally ascribed to the ruling man when he was held to be a deputy-god, is now ascribed to the ruling body, the deputy-godhood of which nobody asserts.

Opponents will, possibly, contend that discussions about the origin and limits of governmental authority are mere pedantries. "Government," they may perhaps say, "is bound to use all the means it has, or can get, for furthering the general happiness. Its aim must be utility; and it is warranted in employing whatever measures are needful for achieving useful ends. The welfare of the people is the supreme law; and legislators are not to be deterred from obeying that law by questions concerning the source and range of their power." Is there really an escape here? or may this opening be effectually closed?

The essential question raised is the truth of the utilitarian theory as commonly held; and the answer here to be given is that, as commonly held, it is not true. Alike by the statements of utilitarian moralists, and by the acts of politicians knowingly or unknowingly following their lead, it is implied that utility is to be directly determined by simple inspection of the immediate facts and estimation of probable results. Whereas, utilitarianism as rightly understood, implies guidance by the general conclusions which analysis of experience yields. "Good and bad results cannot be accidental, but must be necessary consequences of the constitution of things;" and it is "the business of Moral Science to deduce, from the laws of life and the conditions of existence, what kinds of action necessarily tend to produce happiness, and what kinds to produce unhappiness." [1] Current utilitarian speculation, like current practical politics, shows inadequate consciousness of natural causation. The habitual thought is

[1] *Data of Ethics*, § 21. See also §§ 56-62.

that, in the absence of some obvious impediment, things can be done this way or that way; and no question is put whether there is either agreement or conflict with the normal working of things.

The foregoing discussions have, I think, shown that the dictates of utility, and, consequently, the proper actions of governments, are not to be settled by inspection of facts on the surface, and acceptance of their *primâ facie* meanings; but are to be settled by reference to, and deductions from, fundamental facts. The fundamental facts to which all rational judgments of utility must go back, are the facts that life consists of, and is maintained by, certain activities; and that among men in a society, these activities, necessarily becoming mutually limited, are to be carried on by each within the limits thence arising, and not carried on beyond those limits: the maintenance of the limits becoming, by consequence, the function of the agency which regulates society. If each, having freedom to use his powers up to the bounds fixed by the like freedom of others, obtains from his fellow-men as much for his services as they find them worth in comparison with the services of others—if contracts uniformly fulfilled bring to each the share thus determined, and he is left secure in person and possessions to satisfy his wants with the proceeds; then there is maintained the vital principle alike of individual life and of social life. Further, there is maintained the vital principle of social progress; inasmuch as, under such conditions, the individuals of most worth will prosper and multiply more than those of less worth. So that utility, not as empirically estimated but as rationally determined, enjoins this maintenance of individual rights; and, by implication, negatives any course which traverses them.

Here, then, we reach the ultimate interdict against meddling legislation. Reduced to its lowest terms, every proposal to interfere with citizens' activities

further than by enforcing their mutual limitations, is a proposal to improve life by breaking through the fundamental conditions to life. When some are prevented from buying beer that others may be prevented from getting drunk, those who make the law assume that more good than evil will result from interference with the normal relation between conduct and consequences, alike in the few ill-regulated and the many well-regulated. A government which takes fractions of the incomes of multitudinous people, for the purpose of sending to the colonies some who have not prospered here, or for building better industrial dwellings, or for making public libraries and public museums, &c., takes for granted that, not only proximately but ultimately, increased general happiness will result from transgressing the essential requirement to general happiness—the requirement that each shall enjoy all those means to happiness which his actions, carried on without aggression, have brought him. In other cases we do not thus let the immediate blind us to the remote. When asserting the sacredness of property against private transgressors, we do not ask whether the benefit to a hungry man who takes bread from a baker's shop, is or is not greater than the injury inflicted on the baker: we consider, not the special effects, but the general effects which arise if property is insecure. But when the State exacts further amounts from citizens, or further restrains their liberties, we consider only the direct and proximate effects, and ignore the indirect and distant effects. We do not see that by accumulated small infractions of them, the vital conditions of life, individual and social, come to be so imperfectly fulfilled that the life decays.

Yet the decay thus caused becomes manifest where the policy is pushed to an extreme. Any one who studies, in the writings of MM. Taine and de Tocqueville, the state of things which preceded the French

Revolution, will see that tremendous catastrophe came about from so excessive a regulation of men's actions in all their details, and such an enormous drafting away of the products of their actions to maintain the regulating organization, that life was fast becoming impracticable. The empirical utilitarianism of that day, like the empirical utilitarianism of our day, differed from rational utilitarianism in this, that in each successive case it contemplated only the effects of particular interferences on the actions of particular classes of men, and ignored the effects produced by a multiplicity of such interferences on the lives of men at large. And if we ask what then made, and what now makes, this error possible, we find it to be the political superstition that governmental power is subject to no restraints.

When that "divinity" which "doth hedge a king," and which has left a glamour around the body inheriting his power, has quite died away—when it begins to be seen clearly that, in a popularly governed nation, the government is simply a committee of management; it will also be seen that this committee of management has no intrinsic authority. The inevitable conclusion will be that its authority is given by those appointing it; and has just such bounds as they choose to impose. Along with this will go the further conclusion that the laws it passes are not in themselves sacred; but that whatever sacredness they have, it is entirely due to the ethical sanction—an ethical sanction which, as we find, is derivable from the laws of human life as carried on under social conditions. And there will come the corollary that when they have not this ethical sanction they have no sacredness, and may rightly be challenged.

The function of Liberalism in the past was that of putting a limit to the powers of kings. The function of true Liberalism in the future will be that of putting a limit to the powers of Parliaments.

HERBERT SPENCER'S "POSTSCRIPT" TO "THE MAN VS. THE STATE"

WITH COMMENTS BY

DAVID JAYNE HILL

MR. HILL'S COMMENTS

WHATEVER may be the merits or demerits of Herbert Spencer's philosophy in other respects, he deserves to be held in appreciative memory for the emphasis he placed on the antithesis between the individual man and the abstract entity, the State.

This distinction may have arisen primarily from his hostility to ready-made abstractions of any kind. The State is, no doubt, a reality; but it belongs to the category of relations rather than to that of substance. When we look for its true essence, apart from mere forms and accidental attributes, its substantial components are found to be human individuals. If there were no people, there would be no State. It is these who constitute the essential elements of which the State is composed.

On this point Herbert Spencer has not been, and never will be, successfully controverted; for the reason that the conception of the State as an entity apart from the individuals who compose it can be shown both historically and logically to be a mere relic of metaphysics.

Historically, until very recent times, the State has been chiefly a relation between persons ruling and persons ruled. The status thus created was for a long period all there really was of the State. Gradually this *status* has been transformed by the identification of the persons ruled with the persons ruling; until, in the United States at least, the State has come to mean an institution based upon a contract made by the free consent of the citizens themselves.

Logically regarded, therefore, the antithesis between Man and the State is the opposition that exists between human individuals considered as separate personalities and the system of enforced relations in which they choose to live.

The fundamental question, therefore, is: How far may *some* individuals rightly enforce their own private will upon *other* individuals? By "some" we may mean *one*, in which case we would be thinking of an absolute monarchy; or we may mean a select *few*, in which case we would be thinking of an oligarchy; or, finally, we may mean a *majority*, in which case we would be thinking of a pure democracy.

Now the important point here is to recognize the fact, that when it comes to imposing an absolute will upon the human individual to an extent that robs him of an inherent right, it makes no practical difference whether that suppression of the individual is effected by one, or a few, or a majority of his fellow beings, since in all these cases he is equally divested of his rights. When the State does this, no matter what the form of government may be, it becomes despotic; and this tyranny should be regarded as odious.

Underneath all this reasoning, it must be admitted, lies the assumption that there are certain inherent rights which the State should not be permitted to take away. Is this capable of demonstration?

Let us suppose for a moment that such rights nowhere exist. What in that case remains of the distinction between right and wrong? What then becomes of the foundation of the State? Being essentially non-moral, upon that assumption, there is no basis for it but superior force. The State is, therefore, merely supreme power. Whoever possesses it *is* the State. It is no longer a system of relations based on a distinction between right and wrong, it is a relation involving the

absolute subjection of some persons to the will and dictation of other persons.

To this conception of the State Herbert Spencer strenuously objected. His thesis is a reassertion of the inherent rights of the individual,—rights which the State, no matter what its form of government, should not be permitted to take away; and yet he believed that the tendency of his time was to rob the individual of these rights.

To him it seemed all the more shameful that they were to be taken away in the name of Liberalism, that the very political party that had protested in the name of individual rights against a certain type of class control and tyranny in England was advocating and urging another type of class control. It might be true that this latter was a neglected class, a hitherto oppressed and even abused class; but what Herbert Spencer saw and proclaimed was, that an exchange of positions did not destroy despotism. It simply transferred it from one group to another. What he aimed at was a system of legal relations that did not involve any despotism whatever, but fully respected the freedom of each individual in so far as it did not infringe upon the freedom of other individuals.

In stating the case thus, Herbert Spencer expressed the original and traditional conception of government that has hitherto prevailed in the United States. It was in 1860 that he first gave expression to these views. Twenty-four years later he wrote: "The drift of legislation since that time has been of the kind anticipated. Dictatorial measures, rapidly multiplied, have tended continually to narrow the liberties of individuals." In the "Postscript" of 1884 to the essays that were written in 1860 he admits that the recognition of his doctrine had been in no way commensurate with its importance. For this he frankly states the reason to be, "that the restriction of governmental action within the

limits assigned for the preservation of individual rights and liberties is appropriate to the industrial type of society only; and, while wholly incongruous with the militant type of society, is partially incongruous with that semi-militant, semi-industrial type which now characterizes advanced nations."

If we consider how individual rights and liberties have come to be regarded in the United States since Herbert Spencer's "Postscript" was written, we are compelled to admit the fact, that for the first time they have been seriously questioned. With us the change and the explanation of the change in public opinion are different from what they have been in England. In England a previously subordinated class had assumed the exercise of prerogatives formerly exclusively possessed by a class which, through the extension of the elective franchise, had gradually lost control. It is what Herbert Spencer calls "The New Toryism"; that is, the growing domination of a class that had newly come to power, which it had attempted to exercise in new over-legislation for its own advantage.

With us, on the contrary, the evolution has been from the practically universal acceptance of equal inherent and inalienable personal rights and liberties to a growing acceptance of the idea that the State should control the conduct and the possessions of the individual, including his personal habits, his business activities, and even his private opinions. Those who still defend the doctrine of inherent personal rights and liberties are now denounced as "reactionaries," and are frequently insulted in letters, and otherwise, by persons who impugn their motives and accuse them of an alliance with the forces of evil.

What Herbert Spencer says regarding "militant" and "industrial" types of society, and the mixture of them in the contemporary social situation, does not go to the root of the matter. It is far from certain if

these two types of society can be distinguished, much less be fairly placed in contrast. The truth is, that the most militant governments have at the present moment the most complete control of industries, while in the industrial states a fierce militancy has been developed between certain groups of persons over the question of the possession and distribution of property and the rewards appropriate to the various functions in the process of producing value. There has never been in this country a time when such desperate efforts to control the State have been more mandatory, more intrusive, and more inquisitorial in all matters affecting private rights and personal liberties.

In this country this tendency is not only new but alarming. What is most disturbing is not merely that the anarchic and the theocratic spirit is so rife, but that the great mass of the solid thinking people are so passive. Nowhere is there any organized resistance. The political parties, solicitous for the possession of power, meet the situation with timidity. Who can be expected to have the courage to say to the country, if he expects to appeal to the majority for election to office, that the majority may not freely work its will in legislation as well as at the polls? And yet, is it not clear to every man who will pause to reflect upon it that there are rights and liberties which majorities may not justly take away?

What then is the security upon which we must depend for the preservation of the rights and liberties of the individual against the power of the State, or of those who control the State, to deny and limit them? Shall it be upon the casual results of an election, or the unlimited will of a legislative body, or the chances of the initiative and referendum, or the firmness and sense of justice of those possessing the power of veto?

Our fathers thought otherwise. They demanded, secured and pledged themselves to maintain permanent

constitutional guarantees of their most essential rights and liberties, placing it beyond the power of any one to take them away, except by the serious process of amending the fundamental law. Unhappily, we have reached a point where the restrictions of the fundamental law are the chief cause of offence, because they obstruct certain forms of legislation; and there are organizations which have for their purpose so to amend the National Constitution as to facilitate this legislation.

What then is the ground on which this programme is based? It is simply and avowedly that the existing guarantees of personal liberty render certain "social experiments" impossible, because they are prohibited by the Constitution of the United States. Nevertheless, much foolish legislation has been possible, in spite of its restrictions, because it could not be foreseen how many kinds of folly could enter the human mind and find acceptance there.

In truth, it is not "just and equal" laws,—which the Constitution provides for,—but laws intended to produce an artificial equality of conditions, by taking from some in order to give to others, that are desired. It is intended first of all to destroy the only solid guarantee of individual rights and liberties, in order to open the door for the public exploitation of what is now private property. Were this guarantee destroyed, the abstract entity the State could appropriate to itself everything of value, and redistribute it in its own arbitrary way. When all the means of production were thus "socialized," the individual would be at the mercy of the band of officials controlling the State and administering its affairs. All production, transportation, and communication would be in their power. By socializing the improvident, who would be the pensioners and instruments of this official oligarchy, individual enterprise would be at first paralyzed and eventually rendered impossible. Such artificial equality, enforced

by the power of the State, would be the ruin of society; for the reason that individual enterprise is the mainspring of social progress.

Even the possibility of such a condition of paralysis is discouraging. The moment it became evident that industry, frugality, and self-denial would bring no individual reward, the machinery of life would halt and eventually stop. We have seen this verified when even the menace of unwise legislation has put out the furnace fires and diverted capital to foreign fields of investment or the passive security of safe deposit vaults. The State as an abstract entity has no power to satisfy human needs. It is individual energies alone that create wealth and suppress poverty. Whatever quickens these energies and inspires faith and courage in the individual induces prosperity. Whatever deadens them or blunts the edge of personal endeavor arrests the process and tightens the grip of hard times; for it is Man, not the State, that knows the difference between happiness and misery and does the work of the world.

There are, no doubt, many evils in the body politic that need to be eradicated; but we cannot remove these by striking at the rights and liberties of the individual, and thereby crippling individual energy and enterprise in the vain hope of producing an absolute equality of economic conditions. Whatever the laws may be, such an equality of conditions could never be permanently maintained, because the qualities and capacities of men are different. True progress must be based on respect for the rights and liberties of each individual. If these are securely guaranteed, and not menaced, we can proceed constructively toward a better standard of living for all the people, because we shall then be building upon the moral nature of Man, rather than upon the artifices of the State.

There are toward the close of Herbert Spencer's "Postscript" some sentences in modification of an ex-

treme individualism which may very well be emphasized at this time. Even an industrial type of society, in the present condition of the world, cannot prosper without a certain dependence upon the State, including faith in its authority and submission to its control. There must still be thought for the preservation of the national life so long as it is exposed to external dangers. "There needs," he says, "for the management of all matters but the simplest, a governmental power great in degree and wide in range, with a correlative faith in it and obedience to it. . . . This involves continuance of such confidence in the ruling agency, and such subordination to it, as may wield all the forces of society on occasions of attack or defence; and there must survive a political theory justifying the faith and the obedience."

If we apply this reflection to our present national situation in the United States, we perceive the great danger that would result from a profound loss of faith in our system of government as it exists, and especially in the attempt to introduce into it changes so radical as to place personal or class interests above the common good.

A good government, in the present condition of the world, requires a compromise between perfect individual liberty and governmental authority. We must not forget that not only for the national defence, but for our economic prosperity as a nation, there must be faith in our system of government. As Herbert Spencer well says, "Great combinations of a private kind for wholesale production or for large enterprises, require a graduated subordination of the united workers"; and again, "Large undertakings can be achieved only by State action."

The practical meaning of this is, that if we wish to prosper, we must not engage, for the sake of personal or class interests, in domestic hostilities, or even

insist upon mere majority advantages. On the contrary, we must consent freely to such restrictions in the interest of all as will best secure the highest attainable well-being of each individual.

Here we perceive that minority rights must be respected, not only because they are rights; but also because they are, in the last analysis, essential to our strength and efficiency as a nation. Each producer must be permitted to exercise the full measure of his productive power, even though such exercise may entail as a consequence inequality of personal condition; and the power of government must still be employed to guarantee the possession and enjoyment of the results. When it is remembered that in the field of international competition national policy is a determining factor, the duty of a government to direct the energies of its people toward the maximum of efficiency becomes self-evident.

Happy should be the people who finds itself at the same time protected by guarantees from the domination of mere personal and class interests, and so defended by its strength and unity that it may act for a common end. Could Herbert Spencer know the opportunity of the United States to-day, under its system of constitutional guarantees, he perhaps would not consider his ideal "far in advance of practicability"; but he would regard with amazement any tendency to subvert a system which, more nearly than any other, has rendered possible the union of individual rights and liberties with that coherence which is necessary for co-operation in the accomplishment of all desirable ends.

POSTSCRIPT

Herbert Spencer

"Do I expect this doctrine to meet with any considerable acceptance?" I wish I could say, yes; but unhappily various reasons oblige me to conclude that only here and there a solitary citizen may have his political creed modified. Of these reasons there is one from which all the others originate.

This essential reason is that the restriction of governmental power within the limits assigned, is appropriate to the industrial type of society only; and, while wholly incongruous with the militant type of society, is partially incongruous with that semi-militant semi-industrial type, which now characterizes advanced nations. At every stage of social evolution there must exist substantial agreement between practices and beliefs—real beliefs, I mean, not nominal ones. Life can be carried on only by the harmonizing of thoughts and acts. Either the conduct required by circumstances must modify the sentiments and ideas to fit it; or else the changed sentiments and ideas must eventually modify the conduct.

Hence if the maintenance of social life under one set of conditions, necessitates extreme subordination to a ruler and entire faith in him, there will be established a theory that the subordination and the faith are proper—nay imperative. Conversely if, under other conditions, great subjection of citizens to government is no longer needful for preservation of the national life—if, contrariwise, the national life becomes larger in amount and higher in quality as fast as citizens gain increased freedom of action; there comes a progressive modification of their political theory, having the result of diminishing their faith in governmental action, in-

creasing their tendency to question governmental authority, and leading them in more numerous cases to resist governmental power: involving, eventually, an established doctrine of limitation.

Thus it is not to be expected that current opinion respecting governmental authority, can at present be modified to any great extent. But let us look at the necessities of the case more closely.

Manifestly the success of an army depends very much on the faith of the soldiers in their general: disbelief in his ability will go far towards paralyzing them in battle; while absolute confidence in him will make them fulfil their respective parts with courage and energy. If, as in the normally-developed militant type of society, the leader in war and the ruler in peace are one and the same, this confidence in him extends from military action to civil action; and the society, in large measure identical with the army, willingly accepts his judgments as law-giver. Even where the civil head, ceasing to be the military head, does his generalship by deputy, there still clings to him the traditional faith.

As with faith so with obedience. Other things equal, an army of insubordinate soldiers fails before an army of subordinate soldiers. Those whose obedience to their leader is perfect and prompt, are obviously more likely to succeed in battle than are those who disregard the commands issued to them. And as with the army so with the society as a whole; success in war must largely depend on that conformity to the ruler's will which brings men and money when wanted, and adjusts all conduct to his needs.

Thus by survival of the fittest, the militant type of society becomes characterized by profound confidence in the governing power, joined with a loyalty causing submission to it in all matters whatever. And there must tend to be established among those who speculate

about political affairs in a militant society, a theory giving form to the needful ideas and feelings; accompanied by assertions that the law-giver if not divine in nature is divinely directed, and that unlimited obedience to him is divinely ordered.

Change in the ideas and feelings which thus become characteristic of the militant form of organization, can take place only where circumstances favor development of the industrial form of organization. Being carried on by voluntary co-operation instead of by compulsory co-operation, industrial life, as we know it, habituates men to independent activities, leads them to enforce their own claims while respecting the claims of others, strengthens the consciousness of personal rights, and prompts them to resist excesses of governmental control. But since the circumstances which render war less frequent arise but slowly, and since the modifications of nature caused by the transition from a life predominantly militant to a life predominantly industrial can therefore go on but slowly, it happens that the old sentiments and ideas give place to new ones, by small degrees only. And there are several reasons why the transition not only is, but ought to be, gradual. Here are some of them.

In the primitive man and in man but little civilized, there does not exist the nature required for extensive voluntary co-operations. Efforts willingly united with those of others for a common advantage, imply, if the undertaking is large, a perseverance he does not possess. Moreover, where the benefits to be achieved are distant and unfamiliar, as are many for which men nowadays combine, there needs a strength of constructive imagination not to be found in the minds of the uncivilized. And yet again, great combinations of a private kind for wholesale production or for large enterprises, require a graduated subordination of the

united workers—a graduated subordination such as that which militancy produces. In other words, the way to the developed industrial type as we now know it, is through the militant type; which, by discipline generates in long ages the power of continuous application, the willingness to act under direction (now no longer coercive but agreed to under contract) and the habit of achieving large results by organizations.

The implication is that, during long stages of social evolution there needs, for the management of all matters but the simplest, a governmental power great in degree and wide in range, with a correlative faith in it and obedience to it. Hence the fact that, as the records of early civilizations show us, and as we are shown in the East at present, large undertakings can be achieved only by State-action. And hence the fact that only little by little can voluntary co-operation replace compulsory co-operation, and rightly bring about a correlative decrease of faith in governmental ability and authority.

Chiefly, however, the maintenance of this faith is necessitated by the maintenance of fitness for war. This involves continuance of such confidence in the ruling agency, and such subordination to it, as may enable it to wield all the forces of the society on occasions of attack or defence; and there must survive a political theory justifying the faith and the obedience. While their sentiments and ideas are of kinds which perpetually endanger peace, it is requisite that men should have such belief in the authority of government as shall give it adequate coercive power over them for war purposes—a belief in its authority which inevitably, at the same time, gives it coercive power over them for other purposes.

Thus, as said at first, the fundamental reason for not expecting much acceptance of the doctrine set

forth, is that we have at present but partially emerged from the militant *régime* and have but partially entered on that industrial *régime* to which this doctrine is proper.

So long as the religion of enmity predominates over the religion of amity, the current political superstition must hold its ground. While throughout Europe, the early culture of the ruling classes is one which every day of the week holds up for admiration those who in ancient times achieved the greatest feats in battle, and only on Sunday repeats the injunction to put up the sword—while these ruling classes are subject to a moral discipline consisting of six-sevenths pagan example and one-seventh Christian precept; there is no likelihood that there will arise such international relations as may make a decline in governmental power practicable, and a corresponding modification of political theory acceptable. While among ourselves the administration of colonial affairs is such that native tribes who retaliate on Englishmen by whom they have been injured, are punished, not on their own savage principle of life for life, but on the improved civilized principle of wholesale massacre in return for single murder, there is little chance that a political doctrine consistent only with unaggressive conduct will gain currency. While the creed men profess is so interpreted that one of them who at home addresses missionary meetings, seeks, when abroad, to foment a quarrel with an adjacent people whom he wishes to subjugate, and then receives public honors after his death, it is not likely that the relations of our society to other societies will become such that there can spread to any extent that doctrine of limited governmental functions which accompanies the diminished governmental authority proper to a peaceful state. A nation which, interested in ecclesiastical squabbles about the ceremonies of its humane cult, cares so little about the essence of that cult that filibustering

in its colonies receives applause rather than reprobation, and is not denounced even by the priests of its religion of love, is a nation which must continue to suffer from internal aggressions, alike of all individuals on one another and of the State on individuals. It is impossible to unite the blessings of equity at home with the commission of inequities abroad.

Of course there will arise the question—Why, then, enunciate and emphasize a theory at variance with the theory adapted to our present state?

Beyond the general reply that it is the duty of every one who regards a doctrine as true and important, to do what he can towards diffusing it, leaving the result to be what it may, there are several more special replies, each of which is sufficient.

In the first place an ideal, far in advance of practicability though it may be, is always needful for right guidance. If, amid all those compromises which the circumstances of the times necessitates, or are thought to necessitate, there exist no true conceptions of better and worse in social organizations—if nothing beyond the exigencies of the moment are attended to, and the proximately best is habitually identified with the ultimately best; there cannot be any true progress. However distant may be the goal, and however often intervening obstacles may necessitate deviation in our course towards it, it is obviously requisite to know whereabouts it lies.

Again, while something like the present degree of subjection of the individual to the State, and something like the current political theory adapted to it, may remain needful in presence of existing international relations; it is by no means needful that this subjection should be made greater and the adapted theory strengthened. In our days of active philanthropy, hosts of people eager to achieve benefits for

their less fortunate fellows by what seem the shortest methods, are busily occupied in developing administrative arrangements of a kind proper to a lower type of society—are bringing about retrogression while aiming at progression. The normal difficulties in the way of advance are sufficiently great, and it is lamentable that they should be made greater. Hence, something well worth doing may be done, if philanthropists can be shown that they are in many cases insuring the future ill-being of men while eagerly pursuing their present well-being.

Chiefly, however, it is important to press on all the great truth, at present but little recognized, that a society's internal and external policies are so bound together, that there cannot be an essential improvement of the one without an essential improvement of the other. A higher standard of international justice must be habitually acted upon, before there can be conformity to a higher standard of justice in our national arrangements. The conviction that a dependence of this kind exists, could it be diffused among civilized peoples, would greatly check aggressive behavior towards one another; and, by doing this, would diminish the coerciveness of their governmental systems while appropriately changing their political theories.

Note.

[*In some of the criticisms on this work, there has reappeared a mistaken inference several times before drawn, that the doctrine of evolution as applied to social affairs precludes philanthropic effort. How untrue this is, was shown by me in the "Fortnightly Review" for February, 1875. Here I reproduce the essential part of that which was there said.*]

I am chiefly concerned, however, to repudiate the conclusion that the "private action of citizens" is need-

less or unimportant, because the course of social evolution is determined by the natures of citizens, as working under the conditions in which they are placed. To assert that each social change is thus determined, is to assert that all the egoistic and altruistic activities of citizens are factors of the change; and is tacitly to assert that in the absence of any of these—say political aspirations, or the promptings of philanthropy—the change will not be the same. So far from implying that the efforts of each man to achieve that which he thinks best, are unimportant, the doctrine implies that such efforts, severally resulting from the natures of the individuals, are indispensable forces. The correlative duty is thus emphasized in §34 of *First Principles*:—

"It is not for nothing that he has in him these sympathies with some principles and repugnance to others. He, with all his capacities, and aspirations, and beliefs, is not an accident, but a product of the time. He must remember that while he is a descendant of the past, he is a parent of the future; and that his thoughts are as children born to him, which he may not carelessly let die. He, like every other man, may properly consider himself as one of the myriad agencies through whom works the Unknown Cause; and when the Unknown Cause produces in him a certain belief, he is thereby authorized to profess and act out that belief. For, to render in their highest sense the words of the poet,—

> ". . . Nature is made better by no mean,
> But nature makes that mean: over that art
> Which you say adds to nature, is an art
> That nature makes."

That there is no retreat from this view in the work Professor Cairnes criticises, *The Study of Sociology*, is sufficiently shown by its closing paragraph:—

"Thus, admitting that for the fanatic some wild anticipation is needful as a stimulus, and recognizing the usefulness of this delusion as adapted to his particular nature and his particular function, the man of higher type must be content with greatly-moderated expectations, while he perseveres with undiminished efforts. He has to see how comparatively little can be done, and yet to find it worth while to do that little: so uniting philanthropic energy with philosophic calm."

I do not see how Professor Cairnes reconciles with such passages, his statement that "according to Mr. Spencer, the future of the human race may be safely trusted to the action of motives of a private and personal kind—to motives such as operate in the production and distribution of wealth, or in the development of language." This statement is to the effect that I ignore the "action of motives" of a higher kind; whereas these are not only necessarily included by me in the totality of motives, but repeatedly insisted upon as all-essential. I am the more surprised at this misapprehension because, in the essay on *Specialized Administration*, to which Professor Cairnes refers (see *Fortnightly Review*, for December, 1871), I have dwelt at considerable length on the altruistic sentiments and the resulting social activities, as not having been duly taken into account by Professor Huxley.

As Professor Cairnes indicates at the close of his first paper, the difficulty lies in recognizing human actions as, under one aspect, voluntary, and under another pre-determined. I have said elsewhere all I have to say on this point. Here I wish only to point out that the conclusion he draws from my premises is utterly different from the conclusion I draw. Entering this caveat, I must leave all further elucidations to come in due course.

HERBERT SPENCER'S "THE SINS OF LEGISLATORS"

WITH COMMENTS BY

HARLAN F. STONE

MR. STONE'S COMMENTS

THAT Spencer's extraordinary aptitude for generalization sometimes led him to extravagant conclusions, even his most loyal supporters would admit. His essay, *The Sins of Legislators*, first published in 1850, and revised and republished by him in 1892, contains some incidental matter which is fairly open to this criticism; but now after a lapse of more than fifty years, a study of current legislation and legislative methods in this country tends to confirm the essential soundness of Spencer's statement of the principles which should control legislation. On re-reading it one must confess to a realization of our failure in the performance of this important governmental function in that the period since Spencer wrote, characterized more than any other by the systematic study of social and political science and law, should have proved so little productive of real improvement in legislative methods. Now, as then, it may be justly asserted that no function of government is on the whole carried on with as little study of its essential problems, with as slight regard for proper methods or for consequences, as is that of legislation. The multiplication of various organizations engaged in the study of so-called social legislation, and the creation of legislative reference bureaus and other special agencies for the study of legislative methods, indicate a dawning popular consciousness of the sins of our legislatures. But when one considers the vast amount of legislation annually poured out upon the devoted heads of our people, often enacted in ignorance or disregard of the first principles

which must control the regulation of social organization, and frequently so bad in form as to defeat its purpose or require the interpretation of a generation of courts to make it effective, one is impressed with the fact that the sins of our legislators are still outstripping all our efforts for reform.

In 1850, the year when this essay was published, the population of Great Britain was approximately 27,000,000. In that year Parliament enacted more laws than in either of the years which preceded or followed it. Its record of public laws adopted was 116 chapters, filling 831 printed pages. In 1915 the public laws enacted by the legislature of New York, for a population of approximately ten million people, numbered 729 chapters, filling 2,691 printed pages. This enormous amount of statute law is not exceptional, but typical of legislation in most of our states, despite the fact that under our constitutional system the power of a state to legislate is limited to its internal problems, whereas the kingdom of Great Britain is a great sovereign power, requiring legislation affecting both its internal and external relations.

According to Senator Root, Congress and the legislatures of the several states passed more than 62,000 laws during the four years ending December 1st, 1913. England, for reasons which will presently be referred to, has not in recent years been as prolific of legislation as has our own state, or indeed, most of the states of the Union.

For example, during the four legislative sessions of the State of New York ending with 1914, that body passed 3,583 laws, filling 11,110 printed pages. During substantially the same period, embodying a little more than the reign of the present king of England, Parliament passed only 250 public laws, aggregating 1,682 printed pages. In 1914 the record of Parliament was 91 public laws, aggregating 483 pages; dur-

ing the same year the legislature of New York passed 582 laws, filling 2,388 printed pages. There are, of course, some differences in the legislative systems in the two countries which make exact comparison difficult; but it is substantially true that the volume of legislation in New York is from three to four times as great as that of Great Britain, although the population directly affected by English legislation is approximately four times as great as that of the State of New York.

That the great increase in the mass of legislation in this country has been accompanied by any corresponding improvement in the quality is unfortunately not the case. In fact, to the overwhelming quantity of legislation are due many of the existing evils of our legal system. It loads down the machinery of law administration to the breaking point, although it steadily multiplies that machinery. It burdens the courts with a never-ending succession of laws regulating and changing their organization, jurisdiction, and procedure. Of even more serious import is the perpetual adding of new and the changing of old laws upon every conceivable subject, until the whole mass is beyond the power of the human mind to grasp or comprehend, or the power of the government to enforce. It is not surprising that under such a system there is a growing lack of that respect for law which must lie at the foundation of any adequate and efficient legal system.

Spencer points out to us the essential principles which should control the substance of legislation and those phases of social organization which merit special study by the legislator. Legislation is regulative; never creative. Not every ill that the flesh is heir to can be cured by legislative fiat. The complete interdependence of the social organization requires that the regulative power of legislation be used with caution and only after careful study of the phenomena of social

causation, and this in turn must lead to the study of all social phenomena as biological developments having their origin and their analogies in the individual human life. Their nature and development will be revealed in the comparative study of different societies. Their application to the problems of legislation will be ascertained by the comparative study of legislation. The legislator is morally blameless or morally blameworthy, according as he has or has not acquainted himself with these several classes of facts. This, in short, is Spencer's philosophy of legislation, and so far as it relates to the substance of legislation as distinguished from its form, changing conditions still find it complete, requiring no modification or restatement.

But when Spencer applies the theory of natural selection to the problem of what in our day is called "social legislation," he trenches on what has now become debatable ground. He retained until the last his belief that the process of natural selection through the survival of the fittest is the true principle of all social progress, and he distrusted all paternalistic legislation which interfered with the natural operation of that law. To his mind society could not "without immediate or remote disaster interfere with the play of those opposed principles under which every species has reached such fitness for its mode of life as it possesses, and under which it maintains that fitness." It is just here that he sounds an anticipatory note of warning of the dangers of the modern programme of paternalistic legislation. He remained to the last a stalwart defender of individualism, and he maintained that the true limit of governmental aggression in legislation should be the equal freedom of all; that the promotion of the interests of inefficient social units at the expense of the efficient was false in principle and must ultimately result in the deterioration of the social organization as a whole. But we do not understand

that Spencer would deny to the social organization the exercise of a policy of self-protection from the evils, physical and moral, which are consequent upon poverty and certain phases of modern industrial life. The promotion of social efficiency through natural selection, when applied to modern social life, is not inconsistent in principle with the exercise of social prophylaxis through legislation. The fact is that under modern social conditions benefits are not always conferred upon either individuals or groups in accordance with merits, and the unfit do survive in fact and perpetuate their species to become sources of weakness to the social structure. To prevent such consequences, without, however, proceeding to the extent of conscious effort to promote the interests of the unfit at the expense of the fit, would seem to be the proper limit of so-called social legislation. But whatever the true solution of this problem, Spencer's vigorous warning furnishes food for thought and will perhaps inspire with caution the zealous advocates of such sweeping legislative changes as are involved in the many proposals for the various types of pension law, and minimum wage statutes, and modern legislation of similar character.

In advocating the comparative study of legislation, Spencer hints at the remedy for one of the sins of our legislators which he did not particularly emphasize, the evil effect of which is, nevertheless, increasingly apparent, and that is the disregard of form in legislative drafting.

However wisely conceived in principle, legislation must be properly expressed, or it will fail of its purpose. The drawing of a legislative act requires exceptional training, experience, and skill. One who sought to alter and repair a delicate and complicated mechanism without the aid of a skilled mechanic or engineer would be morally and legally chargeable with all the

evil consequences of his recklessness, and yet this is precisely the kind of recklessness and disregard of consequences habitually exhibited by our legislators. Practically speaking, no legislation can be enacted which does not have its effect, and oftentimes a serious effect, upon the existing law, written or unwritten, or both. He who thus undertakes to interfere with our complex legal system should not only know the exact legal situation to be affected by the proposed legislation, both historically and as a matter of existing law, but he must know how the desired change can be accomplished by correct legal methods without the enactment of provisions which conflict with or do not harmonize with existing law intended to be preserved.

This task of the legislator, on the technical side, is one requiring wide legal knowledge and special training and experience, and above all, deliberation and painstaking effort. A large proportion of our legislation, however, is, in fact, crudely drawn. Its language is vague, inaccurate, and often filled with inconsistencies. Words and phrases of uncertain meaning are often preferred to those which have received judicial interpretation, or acquired from accepted usage a definite legal meaning. The history, interpretation and practical operation of existing law are too often disregarded altogether, with the consequence that the courts and the lawyers are left to struggle as best they may with a great mass of ill-considered, poorly constructed legislation, with the ultimate loss and injury to the public which Spencer so vividly portrays.

This inattention to the form of legislation is due, in this country, in part at least, to certain fundamental defects in our legislative system which make it practically impossible to exercise any intelligent control over either the form or substance of legislation. Any member of the legislative body may introduce bills, and members usually introduce them on request. The re-

sult is that an enormous number of bills are usually introduced and referred to committees at the opening of the legislative session, and in most states this piling up of proposed legislation continues until the close or near the close of the session. In the session of the California legislature for 1913, for example, 3,992 bills were introduced, and in the last session of the New York legislature, which adjourned early in order to make way for the Constitutional Convention, 3,356 bills were introduced. It is obvious that such vast amounts of legislative material proceeding from such diverse sources without being submitted to any systematic scrutiny as to form or substance, must be far from scientific, and not even intelligently adapted to its purpose. It is beyond the physical powers of legislative committees, if it be assumed that they possess adequate training and experience, to do the work of considering and revising properly this mass of proposed legislation. If the purpose of the bills seems good, they are reported out of committee, and the closing days of the legislative session are given over to the wholesale passing of bills which have never been the subject of systematic study by any legislative agency.

The comparatively small quantity and excellent quality of English legislation is explained in part by the fact that under the English parliamentary system no member of Parliament can introduce a bill as a matter of right, but only on leave of the legislative body. As a practical matter all bills of public character are introduced by the ministry in power, which thus exercises direct control over all proposed legislation. This system resulted in 1869 in the establishment on a permanent basis of the office of Parliamentary Counsel. This office with the aid of an assistant and a trained legislative drafting staff does the work of drafting and revising all bills for public laws which are introduced into Parliament. There is thus, under the English sys-

tem, authoritative control of the amount of legislation, and by subjecting all legislation to the scrutiny of an expert drafting commission many of the evils of our system are avoided.

The rules lately adopted by some of our legislatures requiring all bills to be introduced early in the session, the establishment of legislative reference bureaus in connection with the Library of Congress and in several of the state capitols, are steps in the direction of improved methods, although they do not aim at the authoritative control of legislation which goes to the root of the matter under the English system. These, and many other evidences of the growth of an intelligent and critical interest in the problems of legislation and legislative methods, give to the republication of Spencer's essay an especial interest at this time, and they afford some basis for the hope that its truths, which made such a slight impression upon his own generation, may be accepted and acted on in our own.

THE SINS OF LEGISLATORS

Herbert Spencer

Be it or be it not true that Man is shapen in iniquity and conceived in sin, it is unquestionably true that Government is begotten of aggression and by aggression. In small undeveloped societies where for ages complete peace has continued, there exists nothing like what we call Government: no coercive agency, but mere honorary headship, if any headship at all. In these exceptional communities, unaggressive and from special causes unaggressed upon, there is so little deviation from the virtues of truthfulness, honesty, justice, and generosity, that nothing beyond an occasional expression of public opinion by informally-assembled elders is

needful. Conversely, we find proofs that, at first recognized but temporarily during leadership in war, the authority of a chief is permanently established by continuity of war; and grows strong where successful war ends in subjection of neighboring tribes. And thence onwards, examples furnished by all races put beyond doubt the truth, that the coercive power of the chief, developing into king, and king of kings (a frequent title in the ancient East), becomes great in proportion as conquest becomes habitual and the union of subdued nations extensive. Comparisons disclose a further truth which should be ever present to us—the truth that the aggressiveness of the ruling power inside a society increases with its aggressiveness outside the society. As, to make an efficient army, the soldiers must be subordinate to their commander; so, to make an efficient fighting community, must the citizens be subordinate to their government. They must furnish recruits to the extent demanded, and yield up whatever property is required.

An obvious implication is that political ethics, originally identical with the ethics of war, must long remain akin to them; and can diverge from them only as warlike activities and preparations become less. Current evidence shows this. At present on the Continent, the citizen is free only when his services as a soldier are not demanded; and during the rest of his life he is largely enslaved in supporting the military organization. Even among ourselves a serious war would, by the necessitated conscription, suspend the liberties of large numbers and trench on the liberties of the rest, by taking from them through taxes whatever supplies were needed—that is, forcing them to labor so many days more for the State. Inevitably the established code of conduct in the dealings of Governments with citizens, must be allied to their code of conduct in their dealings with one another.

I am not, under the title of this article, about to treat of the trespasses and the revenges for trespasses, accounts of which mainly constitute history; nor to trace the internal inequities which have ever accompanied the external inequities. I do not propose here to catalogue the crimes of irresponsible legislators; beginning with that of King Khufu, the stones of whose vast tomb were laid in the bloody sweat of a hundred thousand slaves toiling through long years under the lash; going on to those committed by conquerors, Egyptian, Assyrian, Persian, Macedonian, Roman, and the rest; and ending with those of Napoleon, whose ambition to set his foot on the neck of the civilized world, cost not less than two million lives. Nor do I propose here to enumerate those sins of responsible legislators seen in the long list of laws made in the interests of dominant classes—a list coming down in our own country to those under which there were long maintained slavery and the slave-trade, torturing nearly 40,000 negroes annually by close packing during a tropical voyage, and killing a large percentage of them, and ending with the corn-laws, by which, says Sir Erskine May, "to ensure high rents, it had been decreed that multitudes should hunger."

Not, indeed, that a presentation of the conspicuous misdeeds of legislators, responsible and irresponsible, would be useless. It would have several uses—one of them relevant to the truth above pointed out. Such a presentation would make clear how that identity of political ethics with military ethics which necessarily exists during primitive times, when the army is simply the mobilized society and the society is the quiescent army, continues through long stages, and even now affects in great degrees our law-proceedings and our daily lives. Having, for instance, shown that in numerous savage tribes the judicial function of the chief does not exist, or is nominal, and that very generally during

early stages of European civilization, each man had to defend himself and rectify his private wrongs as best he might—having shown that in mediæval times the right of private war among members of the military order was brought to an end, not because the head ruler thought it his duty to arbitrate, but because private wars interfered with the efficiency of his army in public wars—having shown that the administration of justice displayed through subsequent ages a large amount of its primitive nature, in trial by battle carried on before the king or his deputy as umpire, and which, among ourselves, continued nominally to be an alternative form of trial down to 1819; it might then be pointed out that even now there survives trial by battle under another form: counsel being the champions and purses the weapons. In civil cases, the ruling agency cares scarcely more than of old about rectifying the wrongs of the injured; but, practically, its deputy does little less than enforce the rules of the fight: the result being less a question of equity than a question of pecuniary ability and forensic skill. Nay, so little concern for the administration of justice is shown by the ruling agency, that when, by legal conflict carried on in the presence of its deputy, the combatants have been pecuniarily bled even to the extent of producing prostration, and when, an appeal being made by one of them, the decision is reversed, the beaten combatant is made to pay for the blunders of the deputy, or of a preceding deputy; and not unfrequently the wronged man, who sought protection or restitution, is taken out of court pecuniarily dead.

Adequately done, such a portrayal of governmental misdeeds of commission and omission, proving that the partially-surviving code of ethics arising in, and proper to, a state of war, still vitiates governmental action, might greatly moderate the hopes of those who are anxious to extend governmental control. After observ-

ing that along with the still-manifest traits of that primitive political structure which chronic militancy produces, there goes a still-manifest survival of its primitive principles; the reformer and the philanthropist might be less sanguine in their anticipations of good from its all-pervading agency, and might be more inclined to trust agencies of a non-governmental kind.

But leaving out the greater part of the large topic comprehended under the title of this article, I propose here to deal only with a comparatively small remaining part—those sins of legislators which are not generated by their personal ambitions or class interests, but result from lack of the study by which they are morally bound to prepare themselves.

A druggist's assistant who, after listening to the description of pains which he mistakes for those of colic, but which are really caused by inflammation of the cæcum, prescribes a sharp purgative and kills the patient, is found guilty of manslaughter. He is not allowed to excuse himself on the ground that he did not intend harm but hoped for good. The plea that he simply made a mistake in his diagnosis is not entertained. He is told that he had no right to risk disastrous consequences by meddling in a matter concerning which his knowledge was so inadequate. The fact that he was ignorant or how great was his ignorance is not accepted in bar of judgment. It is tacitly assumed that the experience common to all should have taught him that even the skilled, and much more the unskilled, make mistakes in the identification of disorders and in the appropriate treatment; and that having disregarded the warning derivable from common experience, he was answerable for the consequences.

We measure the responsibilities of legislators for

mischiefs they may do, in a much more lenient fashion. In most cases, so far from thinking of them as deserving punishment for causing disasters by laws ignorantly enacted, we scarcely think of them as deserving reprobation. It is held that common experience should have taught the druggist's assistant, untrained as he is, not to interfere; but it is not held that common experience should have taught the legislator not to interfere till he has trained himself. Though multitudinous facts are before him in the recorded legislation of our own country and of other countries, which should impress on him the immense evils caused by wrong treatment, he is not condemned for disregarding these warnings against rash meddling. Contrariwise, it is thought meritorious in him when—perhaps lately from college, perhaps fresh from keeping a pack of hounds which made him popular in his county, perhaps emerging from a provincial town where he acquired a fortune, perhaps rising from the bar at which he has gained a name as an advocate—he enters Parliament; and forthwith, in quite a light-hearted way, begins to aid or hinder this or that means of operating on the body politic. In this case there is no occasion even to make for him the excuse that he does not know how little he knows; for the public at large agrees with him in thinking it needless that he should know anything more than what the debates on the proposed measures tell him.

And yet the mischiefs wrought by uninstructed lawmaking, enormous in their amount as compared with those caused by uninstructed medical treatment, are conspicuous to all who do but glance over its history. The reader must pardon me while I recall a few familiar instances. Century after century, statesmen went on enacting usury laws which made worse the condition of the debtor—raising the rate of interest "from five to six when intending to reduce it to four," as under Louis XV.; and indirectly producing undreamt of evils

of many kinds, such as preventing the reproductive use of spare capital, and "burdening the small proprietors with a multitude of perpetual services." So too, the endeavors which in England continued through five hundred years to stop forestalling, and which in France, as Arthur Young witnessed, prevented any one from buying "more than two bushels of wheat at market," went on generation after generation increasing the miseries and mortality due to dearth; for, as everybody now knows, the wholesale dealer, who was in the statute "De Pistoribus" vituperated as "an open oppressor of poor people," is simply one whose function it is to equalize the supply of a commodity by checking unduly rapid consumption. Of kindred nature was the measure which, in 1315, to diminish the pressure of famine, prescribed the prices of foods, but which was hastily repealed after it had caused entire disappearance of various foods from the markets; and also such measures, more continuously operating, as those which settled by magisterial order "the reasonable gains" of victuallers. Of like spirit and followed by allied mischiefs have been the many endeavors to fix wages, which began with the Statute of Laborers under Edward III., and ceased only sixty years ago; when, having long galvanized in Spitalfields a decaying industry, and fostered there a miserable population, Lords and Commons finally gave up fixing silk-weavers' earnings by the decisions of magistrates.

Here I imagine an impatient interruption. "We know all that; the story is stale. The mischiefs of interfering with trade have been dinned in our ears till we are weary; and no one needs to be taught the lesson afresh." My first reply is that by the great majority the lesson was never properly learnt at all, and that many of those who did learn it have forgotten it. For just the same pleas which of old were put in for these dictations, are again put in. In the statute 35

of Edward III., which aimed to keep down the price of herrings (but was soon repealed because it raised the price), it was complained that people "coming to the fair . . . to bargain for herring, and every of them, by malice and envy, increase upon other, and, if one proffer forty shilling, another will proffer ten shillings more, and the third sixty shillings, and so every one surmounted other in the bargain." And how "the higgling of the market," here condemned and ascribed "to malice and envy," is being again condemned. The evils of competition have all along been the stock cry of the Socialists; and the council of the Democratic Federation denounces the carrying on of exchange under "the control of individual and greed profit." My second reply is that interferences with the law of supply and demand, which a generation ago were admitted to be habitually mischievous, are now being daily made by Acts of Parliament in new fields; and that, as I shall presently show, they are in these new fields increasing the evils to be cured and producing fresh ones, as of old they did in fields no longer intruded upon.

Returning from this parenthesis, I go on to explain that the above Acts are named to remind the reader that uninstructed legislators have in past times continually increased human suffering in their endeavors to mitigate it; and I have now to add that if these evils, shown to be legislatively intensified or produced, be multiplied by ten or more, a conception will be formed of the aggregate evils caused by law-making unguided by social science. In a paper read to the Statistical Society in May, 1873, Mr. Janson, vice-president of the Law Society, stated that from the Statute of Merton (20 Henry III.) to the end of 1872, there had been passed 18,110 public Acts; of which he estimated that four-fifths had been wholly or partially repealed. He also stated that the number of public Acts repealed wholly or in part, or amended, during the three years

1870-71-72 had been 3,532, of which 2,759 had been totally repealed. To see whether this state of repeal has continued, I have referred to the annually-issued volumes of *The Public General Statutes* for the last three sessions. Saying nothing of the numerous amended Acts, the result is that in the last three sessions there have been totally repealed, separately or in groups, 650 Acts, *belonging to the present reign*, besides many of preceding reigns. This, of course, is greatly above the average rate; for there has of late been an active purgation of the statute-book. But making every allowance, we must infer that within our own times, repeals have mounted some distance into the thousands. Doubtless a number of them have been of laws that were obsolete; others have been demanded by changes of circumstances (though seeing how many of them are of quite recent Acts, this has not been a large cause); others simply because they were inoperative; and others have been consequent on the consolidations of numerous Acts into single Acts. But unquestionably in multitudinous cases, repeals came because the Acts had proved injurious. We talk glibly of such changes—we think of cancelled legislation with indifference. We forget that before laws are abolished they have generally been inflicting evils more or less serious; some for a few years, some for tens of years, some for centuries. Change your vague idea of a bad law into a definite idea of it as an agency operating on people's lives, and you see that it means so much of pain, so much of illness, so much of mortality. A vicious form of legal procedure, for example, either enacted or tolerated, entails on suitors, costs, or delays, or defeats. What do these imply? Loss of money, often ill-spared; great and prolonged anxiety; frequently consequent bad health; unhappiness of family and dependents; children stinted in food and clothing—all of them miseries which bring after them mul-

tiplied remoter miseries. Add to which the far more numerous cases of those who, lacking the means or the courage to enter on law-suits, and therefore submitting to frauds, are impoverished; and have similarly to bear the pains of body and mind which ensue. Even to say that a law has been simply a hindrance, is to say that it has caused needless loss of time, extra trouble, and additional worry; and among over-burdened people extra trouble and worry imply, here and there, physical and mental prostrations, with their entailed direct and indirect sufferings. Seeing, then, that bad legislation means injury to men's lives, judge what must be the total amount of mental distress, physical pain, and raised mortality, which these thousands of repealed Acts of Parliament represent! Fully to bring home the truth that law-making unguided by adequate knowledge brings enormous evils, let me take an instance which a question of the day recalls.

Already I have hinted that interferences with the connection between supply and demand, given up in certain fields after immense mischiefs had been done during many centuries, are now taking place in other fields. This connection is supposed to hold only where it has been proved to hold by the evils of disregarding it: so feeble is men's belief in it. There appears no suspicion that in cases where it seems to fail, natural causation has been traversed by artificial hindrances. And yet in the case to which I now refer—that of the supply of houses for the poor—it needs but to ask what laws have been doing for a long time past, to see that the terrible evils complained of are mostly law-made.

A generation ago discussion was taking place concerning the inadequacy and badness of industrial dwellings, and I had occasion to deal with the question. Here is a passage then written:—

"An architect and surveyor describes it [the Building Act] as having worked after the following manner. In those districts of London consisting of inferior houses built in that unsubstantial fashion which the New Building Act was to mend, there obtains an average rent, sufficiently remunerative to landlords whose houses were run up economically before the New Building Act passed. This existing average rent fixes the rent that must be charged in these districts for new houses of the same accommodation—that is the same number of rooms, for the people they are built for do not appreciate the extra safety of living within walls strengthened with hoop-iron bond. Now it turns out upon trial, that houses built in accordance with the present regulations, and let at this established rate, bring in nothing like a reasonable return. Builders have consequently confined themselves to erecting houses in better districts (where the possibility of a profitable competition with pre-existing houses shows that those pre-existing houses were tolerably substantial), and have ceased to erect dwellings for the masses, except in the suburbs where no pressing sanitary evils exist. Meanwhile, in the inferior districts above described, has resulted an increase of over-crowding—half-a-dozen families in a house, a score lodgers to a room. Nay, more than this has resulted. That state of miserable dilapidation into which these abodes of the poor are allowed to fall, is due to the absence of competition from new houses. Landlords do not find their tenants tempted away by the offer of better accommodation. Repairs, being unnecessary for securing the largest amount of profit, are not made. . . . In fact, for a large percentage of the very horrors which our sanitary agitators are trying to cure by law, we have to thank previous agitators of the same school!"—*Social Statics*, p. 384 (edition of 1851).

These were not the only law-made causes of such evils. As shown in the following further passage, sundry others were recognized:—

"Writing before the repeal of the brick duty, the *Builder* says:—'It is supposed that one-fourth of the cost of a dwelling which lets for 2*s.* 6*d.* or 3*s.* a week is caused by the expense of the title-deeds and the tax on wood and bricks used in its construction. Of course, the owner of such property must be remunerated, and he therefore charges 7½*d.* or 9*d.* a week to cover these burdens.' Mr. C. Gatliff, secretary to the Society for Improving the Dwellings of the Working Classes, describing the effect of the window-tax, says:—'They are now paying upon their institution in St. Pancras the sum of £162 16*s.* in window-duties, or 1 per cent. per annum upon the original outlay. The average rental paid by the Society's tenants is 5*s.* 6*d.* per week, and the window-duty deducts from this 7¼*d.* per week.' "—*Times*, January 31, 1850.—*Social Statics*, p. 385 (edition of 1851).

Neither is this all the evidence which the press of those days afforded. There was published in *The Times* of December 7, 1850 (too late to be used in the above-named work, which I issued in the last week of 1850), a letter dated from the Reform Club, and signed "Architect," which contained the following passages:—

"Lord Kinnaird recommends in your paper of yesterday the construction of model lodging-houses by throwing two or three houses into one.

"Allow me to suggest to his Lordship, and to his friend Lord Ashley to whom he refers, that if,—

"1. The window tax were repealed,

"2. The Building Act repealed (excepting the

clauses enacting that party and external walls shall be fireproof),

"3. The timber duties either equalized or repealed, and,

"4. An Act passed to facilitate the transfer of property,

"There would be no more necessity for model lodging-houses than there is for model ships, model cotton-mills, or model steam-engines.

"The first limits the poor man's house to seven windows,

"The second limits the size of the poor man's house to 25 feet by 18 (about the size of a gentleman's dining-room), into which space the builder has to cram a staircase, an entrance passage, a parlor, and a kitchen (walls and partitions included).

"The third induces the builder to erect the poor man's house of timber unfit for building purposes, the duty on the good material (Baltic) being fifteen times more than the duty on the bad or injurious article (Canadian). The Government, even, exclude the latter from all their contracts.

"The fourth would have considerable influence upon the present miserable state of the dwellings of the poor. Small freeholds might then be transferred as easily as leaseholds. The effect of building leases has been a direct inducement to bad building."

To guard against mis-statements or over-statements, I have taken the precaution to consult a large East-end builder and contractor of forty years' experience Mr. C. Forrest, Museum Works, 17, Victoria Park Square, Bethnal Green, who, being churchwarden, member of the vestry, and of the board of guardians, adds extensive knowledge of local public affairs to his extensive knowledge of the building business. Mr. Forrest, who authorizes me to give his name, verifies

the foregoing statements, with the exception of one which he strengthens. He says that "Architect" understates the evil entailed by the definition of "fourth-rate house;" since the dimensions are much less than those he gives (perhaps in conformity with the provisions of a more recent Building Act). Mr. Forrest has done more than this. Besides illustrating the bad effects of great increase in ground-rents (in sixty years from £1 to £8 10*s.* for a fourth-rate house) which, joined with other causes, had obliged him to abandon plans for industrial dwellings he had intended to build —besides agreeing with "Architect" that this evil has been greatly increased by the difficulties of land transfer due to the law-established system of trusts and entails; he pointed out that a further penalty on the building of small houses is inflicted by additions to local burdens ("prohibitory imposts" he called them): one of the instances he named being that to the cost of each new house has to be added the cost of pavement, roadway, and sewerage, which is charged according to length of frontage, and which, consequently, bears a far larger ratio to the value of a small house than to the value of a large one.

From these law-produced mischiefs, which were great a generation ago, and have since been increasing, let us pass to more recent law-produced mischiefs. The misery, the disease, the mortality, in "rookeries," made continually worse by artificial impediments to the increase of fourth-rate houses, and by the necessitated greater crowding of those which existed, having become a scandal, Government was invoked to remove the evil. It responded by Artisans' Dwellings Act; giving to local authorities powers to pull down bad houses and provide for the building of good ones. What have been the results? A summary of the operations of the Metropolitan Board of Works, dated December 21, 1883, shows that up to last September it had, at a

cost of a million and a quarter to rate-payers, unhoused 21,000 persons and provided houses for 12,000 —the remaining 9,000 to be hereafter provided for, being, meanwhile, left houseless. This is not all. Another local lieutenant of the Government, the Commission of Sewers for the City, working on the same lines, has, under legislative compulsion, pulled down in Golden Lane and Petticoat Square, masses of condemned small houses, which, together, accommodated 1,734 poor people; and of the spaces thus cleared five years ago, one has, by State authority, been sold for a railway station, and the other is only now being covered with industrial dwellings which will eventually accommodate one-half of the expelled population: the result up to the present time being that, added to those displaced by the Metropolitan Board of Works, these 1,734 displaced five years ago, form a total of nearly 11,000 artificially made homeless, who have had to find corners for themselves in miserable places that were already overflowing!

See then what legislation has done. By ill-imposed taxes, raising the prices of bricks and timber, it added to the costs of houses; and prompted, for economy's sake, the use of bad materials in scanty quantities. To check the consequent production of wretched dwellings, it established regulations which, in mediæval fashion, dictated the quality of the commodity produced: there being no perception that by insisting on a higher quality and therefore higher price, it would limit the demand and eventually diminish the supply. By additional local burdens, legislation has of late still further hindered the building of small houses. Finally, having, by successive measures, produced first bad houses and then a deficiency of better ones, it has at length provided for the artificially-increased overflow of poor people by diminishing the house-capacity which already could not contain them!

Where then lies the blame for the miseries of the East-end? Against whom should be raised "The bitter cry of outcast London"?

The German anthropologist Bastian tells us that a sick native of Guinea who causes the fetish to lie by not recovering is strangled; and we may reasonably suppose that among the Guinea people, any one audacious enough to call in question the power of the fetish would be promptly sacrificed. In days when Governmental authority was enforced by strong measures, there was a kindred danger in saying anything disrespectful of the political fetish. Nowadays, however, the worst punishment to be looked for by one who questions its omnipotence, is that he will be reviled as a reactionary who talks *laissez-faire*. That any facts he may bring forward will appreciably decrease the established faith is not to be expected; for we are daily shown that this faith is proof against all adverse evidence. Let us contemplate a small part of that vast mass of it which passes unheeded.

"A Government-office is like an inverted filter; you send in accounts clear and they come out muddy." Such was the comparison I heard made many years ago by the late Sir Charles Fox, who, in the conduct of his business, had considerable experience of public departments. That his opinion was not a singular one, though his comparison was, all men know. Exposures by the press and criticism in Parliament, leave no one in ignorance of the vices of red-tape routine. Its delays, perpetually complained of, and which in the time of Mr. Fox Maule went to the extent that "the commissions of officers in the army" were generally "about two years in arrear," is afresh illustrated by the issue of the first volume of the detailed census of 1881, more than two years after the information was collected. If we seek explanations of such delays,

we find one origin to be a scarcely credible confusion. In the case of the census returns, the Registrar-General tells us that "the difficulty consists not merely in the vast multitude of different areas that have to be taken into account, but still more in the bewildering complexity of their boundaries:" there being 39,000 administrative areas of 22 different kinds which overlap one another—hundreds, parishes, boroughs, wards, petty sessional divisions, lieutenancy divisions, urban and rural sanitary districts, dioceses, registration districts, &c. And then, as Mr. Rathbone, M.P., points out, these many superposed sets of areas with intersecting boundaries, have their respective governing bodies with authorities running into one another's districts. Does any one ask why for each additional administration Parliament has established a fresh set of divisions? The reply which suggests itself is—To preserve consistency of method. For this organized confusion corresponds completely with that organized confusion which Parliament each year increases by throwing on to the heap of its old Acts a hundred new Acts, the provisions of which traverse and qualify in all kinds of ways the provisions of multitudinous Acts on to which they are thrown: the onus of settling what is the law being left to private persons, who lose their property in getting judges' interpretations. And again, this system of putting networks of districts over other networks, with their conflicting authorities, is quite consistent with the method under which the reader of the Public Health Act of 1872, who wishes to know what are the powers exercised over him, is referred to 26 preceding Acts of several classes and numerous dates. So, too, with administrative inertia. Continually there occur cases showing the resistance of officialism to improvements; as by the Admiralty when use of the electric telegraph was proposed, and the reply was—"We have a very good semaphore system;" or as by the Post

Office, which the late Sir Charles Siemens years ago said had obstructed the employment of improved methods of telegraphing and which since then has impeded the use of the telephone. Other cases akin to the case of industrial dwellings, now and then show how the State with one hand increases evils which with the other hand it tries to diminish; as when it puts a duty on fire-insurances and then makes regulations for the better putting out of fires: dictating, too, certain modes of construction which, as Captain Shaw shows, entail additional dangers. Again, the absurdities of official routine, rigid where it need not be and lax where it should be rigid, occasionally become glaring enough to cause scandals; as when a secret State-document of importance, put into the hands of an ill-paid copying-clerk who was not even in permanent Government employ, was made public by him; or as when the mode of making the Moorsom fuse, which was kept secret even from our highest artillery officers, was taught to them by the Russians, who had been allowed to learn it; or as when a diagram showing the "distances at which British and foreign iron-clads could be perforated by our large guns," communicated by an enterprising *attaché* to his own Government, then became known "to all the Governments of Europe," while English officers remained ignorant of the facts. So, too, with State-supervision. Guaranteeing of quality by inspection has been shown, in the hall-marking of silver, to be superfluous, while the silver trade has been decreased by it; and in other cases it has lowered the quality by establishing a standard which it is useless to exceed: instance the case of the Cork butter-market, where the higher kinds are disadvantaged in not adequately profiting by their better repute; or, instance the case of herring-branding (now optional), the effect of which is to put the many inferior curers who just reach the level of official approval, on a par with the few better

ones who rise above it, and so to discourage these. But such lessons pass unlearned. Even where the failure of inspection is most glaring, no notice is taken of it; as instance the terrible catastrophe by which a train full of people was destroyed along with the Tay bridge. Countless denunciations, loud and unsparing, were vented against engineer and contractor; but little, if anything, was said about the Government officer from whom the bridge received State-approval. So, too, with prevention of disease. It matters not that under the management or dictation of State-agents some of the worst evils occur; as when the lives of 87 wives and children of soldiers are sacrificed in the ship *Accrington;* or as when typhoid fever and diphtheria are diffused by a State-ordered drainage system, as in Edinburgh; or as when officially-enforced sanitary appliances, ever getting out of order, increase the evils they were to decrease. Masses of such evidence leave unabated the confidence with which sanitary inspection is invoked—invoked, indeed, more than ever; as is shown in the recent suggestion that all public schools should be under the supervision of health-officers. Nay, even when the State has manifestly caused the mischief complained of, faith in its beneficent agency is not at all diminished; as we see in the fact that, having a generation ago authorized, or rather required, towns to establish drainage systems which delivered sewage into the rivers, and having thus polluted the sources of water-supply, an outcry was raised against the water-companies for the impurities of their water—an outcry which continued after these towns had been compelled, at vast extra cost, to revolutionize their drainage systems. And now, as the only remedy, there follows the demand that the State, by its local proxies, shall undertake the whole business. The State's misdoings become, as in the case of industrial dwellings, reasons for praying it to do more!

This worship of the legislature is, in one respect, indeed, less excusable than the fetish-worship to which I have tacitly compared it. The savage has the defence that his fetish is silent—does not confess its inability. But the civilized man persists in ascribing to this idol made with his own hands, powers which in one way or other it confesses it has not got. I do not mean merely that the debates daily tell us of legislative measures which have done evil instead of good; nor do I mean merely that the thousands of Acts of Parliament which repeal preceding Acts, are so many tacit admissions of failure. Neither do I refer only to such quasi-governmental confessions as that contained in the report of the Poor Law Commissioners, who said that—"We find, on the one hand, that there is scarcely one statute connected with the administration of public relief which has produced the effect designed by the legislature, and that the majority of them have created new evils, and aggravated those which they were intended to prevent." I refer rather to confessions made by statesmen and by State departments. Here, for example, in a memorial addressed to Mr. Gladstone, and adopted by a highly-influential meeting held under the chairmanship of the late Lord Lyttelton, I read:—

"We, the undersigned, Peers, Members of the House of Commons, Rate-payers, and Inhabitants of the Metropolis, feeling strongly the truth and force of your statement made in the House of Commons, in 1866, that, 'there is still a lamentable and deplorable state of our whole arrangements with regard to public works —vacillation, uncertainty, costliness, extravagance, meanness, and all the conflicting vices that could be enumerated, are united in our present system,'" &c., &c.

Here, again, is an example furnished by a recent minute of the Board of Trade (November, 1883), in which it is

said that since "the Shipwreck Committee of 1836 scarcely a session has passed without some Act being passed or some step being taken by the legislature or the Government with this object" [prevention of shipwrecks]; and that "the multiplicity of statutes, which were all consolidated into one Act in 1854, has again become a scandal and a reproach:" each measure being passed because previous ones had failed. And then comes presently the confession that "the loss of life and of ships has been greater since 1876 than it ever was before." Meanwhile, the cost of administration has been raised from £17,000 a year to £73,000 a year.

It is surprising how, spite of better knowledge, the imagination is excited by artificial appliances used in particular ways. We see it all through human history, from the war-paint with which the savage frightens his adversary, down through religious ceremonies and regal processions, to the robes of a Speaker and the wand of an officially-dressed usher. I remember a child who, able to look with tolerable composure on a horrible cadaverous mask while it was held in the hand, ran away shrieking when his father put it on. A kindred change of feeling comes over constituencies when, from boroughs and counties, their members pass to the Legislative Chamber. While before them as candidates, they are, by one or other party, jeered at, lampooned, "heckled," and in all ways treated with utter disrespect. But as soon as they assemble at Westminster, those against whom taunts and invectives, charges of incompetence and folly, had been showered from press and platform, excite unlimited faith. Judging from the prayers made to them, there is nothing which their wisdom and their power cannot compass.

The reply to all this will doubtless be that nothing better than guidance by "collective wisdom" can be had—that the select men of the nation, led by a reselected few, bring their best powers, enlightened by

all the knowledge of the time, to bear on the matters before them. "What more would you have?" will be the question asked by most.

My answer is that this best knowledge of the time with which legislators are said to come prepared for their duties is a knowledge of which the greater part is obviously irrelevant, and that they are blameworthy for not seeing what is the relevant knowledge. No amount of the linguistic acquirements by which many of them are distinguished will help their judgments in the least; nor will they be appreciably helped by the literatures these acquirements open to them. Political experiences and speculations coming from small ancient societies, through philosophers who assume that war is the normal state, that slavery is alike needful and just, and that women must remain in perpetual tutelage, can yield them but small aid in judging how Acts of Parliament will work in great nations of modern types. They may ponder on the doings of all the great men by whom, according to the Carlylean theory, society is framed, and they may spend years over those accounts of international conflicts, and treacheries, and intrigues, and treaties, which fill historical works, without being much nearer understanding the how and the why of social structures and actions, and the ways in which laws affect them. Nor does such information as is picked up at the factory, on 'Change, or in the justice room, go far towards the required preparation.

That which is really needed is a systematic study of natural causation as displayed among human beings socially aggregated. Though a distinct consciousness of causation is the last trait which intellectual progress brings—though with the savage even a simple mechanical cause is not conceived as such—though even among the Greeks the flight of a spear was thought of as guided by a god—though from their times down almost to our own, epidemics have been habitually re-

garded as of supernatural origin—and though among social phenomena, the most complex of all, casual relations may be expected to continue longest unrecognized; yet in our days, the existence of such causal relations has become clear enough to force on all who think, the inference that before meddling with them they should be diligently studied. The mere facts, now familiar, that there is a connection between the number of marriages and the price of corn, and that in the same society during the same generation, the ratio of crime to population varies within narrow limits, should be sufficient to make all see that human desires, using as guide such intellect as is joined with them, act with approximate uniformity. It should be inferred that among social causes, those initiated by legislation, similarly operating with an average regularity, must not only change men's actions, but, by consequence, change their natures—probably in ways not intended. There should be recognition of the fact that social causation, more than all other causation, is a fructifying causation; and it should be seen that indirect and remote effects are no less inevitable than proximate effects. I do not mean that there is denial of these statements and inferences. But there are beliefs and beliefs—some which are held nominally, some which influence conduct in small degrees, some which sway it irresistibly under all circumstances; and unhappily the beliefs of law-makers respecting causation in social affairs, are of the superficial sort. Let us look at some of the truths which all tacitly admit, but which scarcely any take account of in legislation.

There is the indisputable fact that each human being is in a certain degree modifiable, both physically and mentally. Every theory of education, every discipline, from that of the arithmetician to that of the prize-fighter, every proposed reward for virtue or punishment for vice, implies the belief, embodied in sundry

proverbs, that the use or disuse of each faculty, bodily or mental, is followed by an adaptive change in it—loss of power or gain of power, according to demand.

There is the fact, also in its broader manifestations universally recognized, that modifications of structure, in one way or other produced, are inheritable. No one denies that by the accumulation of small changes, generation after generation, constitution fits itself to conditions; so that a climate which is fatal to other races is innocuous to the adapted race. No one denies that peoples who belong to the same original stock, but have spread into different habitats where they have led different lives, have acquired in course of time different aptitudes and different tendencies. No one denies that under new conditions new national characters are even now being molded; as witness the Americans. And if adaptation is everywhere and always going on, then adaptive modifications must be set up by every change of social conditions.

To which there comes the undeniable corollary that every law which serves to alter men's modes of action —compelling, or restraining, or aiding, in new ways—so affects them as to cause, in course of time, fresh adjustments of their natures. Beyond any immediate effect wrought, there is the remote effect, wholly ignored by most—a re-molding of the average character: a re-molding which may be of a desirable kind or of an undesirable kind, but which in any case is the most important of the results to be considered.

Other general truths which the citizens, and still more the legislator, ought to contemplate until they become wrought into his intellectual fabric, are disclosed when we ask how social activities are produced; and when we recognize the obvious answer that they are the aggregate results of the desires of individuals who are severally seeking satisfactions, and ordinarily pursuing the ways which, with their pre-existing habits

and thoughts, seem the easiest—following the lines of least resistance: the truths of political economy being so many sequences. It needs no proving that social structures and social actions must in some way or other be the outcome of human emotions guided by ideas—either those of ancestors or those of living men. And that the right interpretation of social phenomena is to be found in the co-operation of these factors from generation to generation, follows inevitably.

Such an interpretation soon brings us to the inference that among men's desires seeking gratifications, those which have prompted their private activities and their spontaneous co-operations, have done much more towards social development than those which have worked through governmental agencies. That abundant crops now grow where once only wild berries could be gathered, is due to the pursuit of individual satisfactions through many centuries. The progress from wigwams to good houses has resulted from wishes to increase personal welfare; and towns have arisen under the like promptings. Beginning with traffic at gatherings on occasions of religious festivals, the trading organization, now so extensive and complex, has been produced entirely by men's efforts to achieve their private ends. Perpetually, governments have thwarted and deranged the growth, but have in no way furthered it; save by partially discharging their proper function and maintaining social order. So, too, with those advances of knowledge and those improvements of appliances, by which these structural changes and these increasing activities have been made possible. It is not to the State that we owe the multitudinous useful inventions from the spade to the telephone; it was not the State which made possible extended navigation by a developed astronomy; it was not the State which made the discoveries in physics, chemistry, and the rest, which guide modern manufacturers; it was not

the State which devised the machinery for producing fabrics of every kind, for transferring men and things from place to place, and for ministering in a thousand ways to our comforts. The world-wide transactions conducted in merchants' offices, the rush of traffic filling our streets, the retail distributing system which brings everything within easy reach and delivers the necessaries of life daily at our doors, are not of governmental origin. All these are results of the spontaneous activities of citizens, separate or grouped. Nay, to these spontaneous activities governments owe the very means of performing their duties. Divest the political machinery of all those aids which Science and Art have yielded it—leave it with those only which State-officials have invented; and its functions would cease. The very language in which its laws are registered and the orders of its agents daily given, is an instrument not in the remotest degree due to the legislator; but is one which has unawares grown up during men's intercourse while pursuing their personal satisfactions.

And then a truth to which the foregoing one introduces us, is that this spontaneously-formed social organization is so bound together that you cannot act on one part without acting more or less on all parts. We see this unmistakably when a cotton-famine, first paralyzing certain manufacturing districts and then affecting the doings of wholesale and retail distributors throughout the kingdom, as well as the people they supply, goes on to affect the makers and distributors, as well as the wearers, of other fabrics—woollen, linen, &c. Or we see it when a rise in the price of coal, besides influencing domestic life everywhere, hinders many of our industries, raises the prices of the commodities produced, alters the consumption of them, and changes the habits of consumers. What we see clearly in these marked cases happens in every case, in sensible or in

insensible ways. And manifestly, Acts of Parliament are among those factors which, beyond the effects directly produced, have countless other effects of multitudinous kinds. As I heard remarked by a distinguished professor, whose studies give ample means of judging—"When once you begin to interfere with the order of Nature there is no knowing where the results will end." And if this is true of that sub-human order of Nature to which he referred, still more is it true of that order of Nature existing in the social arrangements of human beings.

And now to carry home the conclusion that the legislator should bring to his business a vivid consciousness of these and other such broad truths concerning the society with which he proposes to deal, let me present somewhat more fully one of them not yet mentioned.

The continuance of every higher species of creature depends on conformity, now to one, now to the other, of two radically-opposed principles. The early lives of its members, and the adult lives of its members, have to be dealt with in contrary ways. We will contemplate them in their natural order.

One of the most familiar facts is that animals of superior types, comparatively slow in reaching maturity, are enabled when they have reached it, to give more aid to their offspring than animals of inferior types. The adults foster their young during periods more or less prolonged, while yet the young are unable to provide for themselves; and it is obvious that maintenance of the species can be secured only by this parental care. It requires no proving that the blind unfledged hedgebird, or the young puppy even after it has acquired sight, would forthwith die if it had to keep itself warm and obtain its own food. The gratuitous aid must be great in proportion as the young one

is of little worth, either to itself or to others; and it may diminish as fast as, by increasing development, the young one acquires worth, at first for self-sustentation, and by-and-by for sustentation of others. That is to say, during immaturity, benefits received must vary inversely as the power or ability of the receiver. Clearly if during this first part of life benefits were proportioned to merits, or rewards to deserts, the species would disappear in a generation.

From this *régime* of the family-group, let us turn to the *régime* of that larger group formed by adult members of the species. Ask what happens when the new individual, acquiring complete use of its powers and ceasing to have parental aid, is left to itself. Now there comes into play a principle just the reverse to that above described. Throughout the rest of its life, each adult gets benefit in proportion to merit—reward in proportion to desert: merit and desert in each case being understood as ability to fulfil all the requirements of life—to get food, to find shelter, to escape enemies. Placed in competition with members of its own species and in antagonism with members of other species, it dwindles and gets killed off, or thrives and propagates, according as it is ill-endowed or well-endowed. Manifestly an opposite *régime*, could it be maintained, would, in course of time, be fatal. If the benefits received by each individual were proportionate to its inferiority—if, as a consequence, multiplication of the inferior was furthered, and multiplication of the superior hindered, progressive degradation would result; and eventually the degenerate species would fail to hold its ground in presence of antagonistic species and competing species.

The broad fact then, here to be noted, is that Nature's modes of treatment inside the family-group and outside the family-group are diametrically opposed to one another; and that the intrusion of either mode into

the sphere of the other, would be destructive either immediately or remotely.

Does any one think that the like does not hold of the human species? He cannot deny that within the human family, as within any inferior family, it would be fatal to proportion benefits to merits. Can he assert that outside the family, among adults, there should not be, as throughout the animal world, a proportioning of benefits to merits? Will he contend that no mischief will result if the lowly endowed are enabled to thrive and multiply as much as, or more than, the highly endowed? A society of men, standing towards other societies in relations of either antagonism or competition, may be considered as a species, or, more literally, as a variety of a species; and it must be true of it as of other species or varieties, that it will be unable to hold its own in the struggle with other societies, if it disadvantages its superior units that it may advantage its inferior units. Surely none can fail to see that were the principle of family life to be adopted and fully carried out in social life—were reward always great in proportion as desert was small, fatal results to the society would quickly follow; and if so, then even a partial intrusion of the family *régime* into the *régime* of the State, will be slowly followed by fatal results. Society in its corporate capacity, cannot without immediate or remoter disaster interfere with the play of these opposed principles under which every species has reached such fitness for its mode of life as it possesses, and under which it maintains that fitness.

I say advisedly—society in its corporate capacity; not intending to exclude or condemn aid given to the inferior by the superior in their individual capacities. Though when given so indiscriminately as to enable the inferior to multiply, such aid entails mischief; yet in the absence of aid given by society, individual aid,

more generally demanded than now, and associated with a greater sense of responsibility, would, on the average, be given with the effect of fostering the unfortunate worthy rather than the innately unworthy: there being always, too, the concomitant social benefit arising from culture of the sympathies. But all this may be admitted while asserting that the radical distinction between family-ethics and State-ethics must be maintained; and that while generosity must be the essential principle of the one, justice must be the essential principle of the other—a rigorous maintenance of those normal relations among citizens under which each gets in return for his labor, skilled or unskilled, bodily or mental, as much as is proved to be its value by the demand for it: such return, therefore, as will enable him to thrive and rear offspring in proportion to the superiorities which make him valuable to himself and others.

And yet, notwithstanding the conspicuousness of these truths, which should strike every one who leaves his lexicons, and his law-deeds, and his ledgers, and looks abroad into that natural order of things under which we exist, and to which we must conform, there is continual advocacy of paternal government. The intrusion of family-ethics into the ethics of the State, instead of being regarded as socially injurious, is more and more demanded as the only efficient means to social benefit. So far has this delusion now gone, that it vitiates the beliefs of those who might, more than all others, be thought safe from it. In the essay to which the Cobden Club awarded its prize in 1880, there occurs the assertion that "the truth of Free Trade is clouded over by the *laissez-faire* fallacy;" and we are told that "we need a great deal more parental government—that bugbear of the old economists."

Vitally important as is the truth above insisted upon, since acceptance or rejection of it affects the entire

fabric of political conclusions formed, I may be excused if I emphasize it by here quoting certain passages contained in a work I published in 1851: premising, only, that the reader must not hold me committed to such teleological implications as they contain. After describing "that state of universal warfare maintained throughout the lower creation," and showing that an average of benefit results from it, I have continued thus:—

"Note further, that their carnivorous enemies not only remove from herbivorous herbs individuals past their prime, but also weed out the sickly, the malformed, and the least fleet or powerful. By the aid of which purifying process, as well as by the fighting so universal in the pairing season, all vitiation of the race through the multiplication of its inferior samples is prevented; and the maintenance of a constitution completely adapted to surrounding conditions, and therefore most productive of happiness, is ensured.

"The development of the higher creation is a progress towards a form of being capable of a happiness undiminished by these drawbacks. It is in the human race that the consummation is to be accomplished. Civilization is the last stage of its accomplishment. And the ideal man is the man in whom all the conditions of that accomplishment are fulfilled. Meanwhile, the well-being of existing humanity, and the unfolding of it into this ultimate perfection, are both secured by that same beneficent, though severe discipline, to which the animate creation at large is subject: a discipline which is pitiless in the working out of good: a felicity-pursuing law which never swerves for the avoidance of partial and temporary suffering. The poverty of the incapable, the distresses that come upon the imprudent, the starvation of the idle, and those shoulderings aside of the weak by the strong, which leave so many 'in shal-

lows and in miseries,' are the decrees of a large, far-seeing benevolence."

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"To become fit for the social state, man has not only to lose his savageness, but he has to acquire the capacities needful for civilized life. Power of application must be developed; such modification of the intellect as shall qualify it for its new tasks must take place; and, above all, there must be gained the ability to sacrifice a small immediate gratification for a future great one. The state of transition will of course be an unhappy state. Misery inevitably results from incongruity between constitution and conditions. All these evils which afflict us, and seem to the uninitiated the obvious consequences of this or that removable cause, are unavoidable attendants on the adaptation now in progress. Humanity is being pressed against the inexorable necessities of its new position—is being molded into harmony with them, and has to bear the resulting unhappiness as best it can. The process *must* be undergone, and the sufferings *must* be endured. No power on earth, no cunningly-devised laws of statesmen, no world-rectifying schemes of the humane, no communist panaceas, no reforms that men ever did broach or ever will broach, can diminish them one jot. Intensified they may be, and are; and in preventing their intensification, the philanthropic will find ample scope for exertion. But there is bound up with the change a *normal* amount of suffering, which cannot be lessened without altering the very laws of life."

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"Of course, in so far as the severity of this process is mitigated by the spontaneous sympathy of men for each other, it is proper that it should be mitigated; albeit there is unquestionably harm done when sympathy is shown, without any regard to ultimate results. But the drawbacks hence arising are nothing like com-

mensurate with the benefits otherwise conferred. Only when this sympathy prompts to a breach of equity—only when it originates an interference forbidden by the law of equal freedom—only when, by so doing, it suspends in some particular department of life the relationship between constitution and conditions, does it work pure evil. Then, however, it defeats its own end. Instead of diminishing suffering, it eventually increases it. It favors the multiplication of those worst fitted for existence, and, by consequence, hinders the multiplication of those best fitted for existence—leaving, as it does, less room for them. It tends to fill the world with those to whom life will bring most pain, and tends to keep out of it those to whom life will bring most pleasure. It inflicts positive misery, and prevents positive happiness."—*Social Statics*, pp. 322-5 and pp. 380-1 (edition of 1851).

The lapse of a third of a century since these passages were published, has brought me no reason for retreating from the position taken up in them. Contrariwise, it has brought a vast amount of evidence strengthening that position. The beneficial results of the survival of the fittest, prove to be immeasurably greater than those above indicated. The process of "natural selection," as Mr. Darwin called it, co-operating with a tendency to variation and to inheritance of variations, he has shown to be a chief cause (though not, I believe, the sole cause) of that evolution through which all living things, beginning with the lowest and diverging and re-diverging as they evolved, have reached their present degrees of organization and adaptation to their modes of life. So familiar has this truth become that some apology seems needed for naming it. And yet, strange to say, now that this truth is recognized by most cultivated people—now that the beneficent working of the survival of the fittest has been

so impressed on them that, much more than people in past times, they might be expected to hesitate before neutralizing its action—now more than ever before in the history of the world, are they doing all they can to further survival of the unfittest!

But the postulate that men are rational beings, continually leads one to draw inferences which prove to be extremely wide of the mark.

"Yes truly; your principle is derived from the lives of brutes, and is a brutal principle. You will not persuade me that men are to be under the discipline which animals are under. I care nothing for your natural-history arguments. My conscience shows me that the feeble and the suffering must be helped; and if selfish people won't help them, they must be forced by law to help them. Don't tell me that the milk of human kindness is to be reserved for the relations between individuals, and that Governments must be the administrators of nothing but hard justice. Every man with sympathy in him must feel that hunger and pain and squalor must be prevented; and that if private agencies do not suffice, then public agencies must be established."

Such is the kind of response which I expect to be made by nine out of ten. In some of them it will doubtless result from a fellow-feeling so acute that they cannot contemplate human misery without an impatience which excludes all thought of remote results. Concerning the susceptibilities of the rest, we may, however, be somewhat sceptical. Persons who are angry if, to maintain our supposed national "interests" or national "*prestige*," those in authority do not send out thousands of men to be partially destroyed while destroying other thousands of men because we suspect their intentions, or dislike their institutions, or want their territory, cannot after all be so tender in feeling that contemplating the hardships of the poor is intolerable

to them. Little admiration need be felt for the professed sympathies of people who urge on a policy which breaks up progressing societies; and who then look on with cynical indifference at the weltering confusion left behind, with all its entailed suffering and death. Those who, when Boers, asserting their independence, successfully resisted us, were angry because British "honor" was not maintained by fighting to avenge a defeat, at the cost of more mortality and misery to our own soldiers and their antagonists, cannot have so much "enthusiasm of humanity" as protests like that indicated above would lead one to expect. Indeed, along with this sensitiveness which it seems will not let them look with patience on the pains of "the battle of life" as it quietly goes on around, they appear to have a callousness which not only tolerates but enjoys contemplating the pains of battles of the literal kind; as one sees in the demand for illustrated papers containing scenes of carnage, and in the greediness with which detailed accounts of bloody engagements are read. We may reasonably have our doubts about men whose feelings are such that they cannot bear the thought of hardships borne, mostly by the idle and the improvident, and who, nevertheless, have demanded thirty-one editions of *The Fifteen Decisive Battles of the World*, in which they may revel in accounts of slaughter. Nay, even still more remarkable is the contrast between the professed tender-heartedness and the actual hard-heartedness of those who would reverse the normal course of things that immediate miseries may be prevented, even at the cost of greater miseries hereafter produced. For on other occasions you may hear them, with utter disregard of bloodshed and death, contend that in the interests of humanity at large, it is well that the inferior races should be exterminated and their places occupied by the superior races. So that, marvellous to relate, though they cannot bear to think of the evils

accompanying the struggle for existence as it is carried on without violence among individuals in their own society, they contemplate with equanimity such evils in their intense and wholesale forms, when inflicted by fire and sword on entire communities. Not worthy of much respect then, as it seems to me, is this generous consideration of the inferior at home which is accompanied by unscrupulous sacrifice of the inferior abroad.

Still less respectable appears this extreme concern for those of our own blood which goes along with utter unconcern for those of other blood, when we observe its methods. Did it prompt personal effort to relieve the suffering, it would rightly receive approving recognition. Were the many who express this cheap pity like the few who devote large parts of their time to aiding and encouraging, and occasionally amusing, those who, by ill-fortune or incapacity, are brought to lives of hardship, they would be worthy of unqualified admiration. The more there are of men and women who help the poor to help themselves—the more there are of those whose sympathy is exhibited directly and not by proxy, the more we may rejoice. But the immense majority of the persons who wish to mitigate by law the miseries of the unsuccessful and the reckless, propose to do this in small measure at their own cost and mainly at the cost of others—sometimes with their assent but mostly without. More than this is true; for those who are to be forced to do so much for the distressed, often equally or more require something doing for them. The deserving poor are among those who are taxed to support the undeserving poor. As, under the old Poor Law, the diligent and provident laborer had to pay that the good-for-nothings might not suffer, until frequently under this extra burden he broke down and himself took refuge in the workhouse—as, at present, the total rates levied in large towns for all public purposes, have reached such a height that they "cannot

be exceeded without inflicting great hardship on the small shop-keepers and artisans, who already find it difficult enough to keep themselves free from the pauper taint;" so in all cases, the policy is one which intensifies the pains of those most deserving of pity, that the pains of those least deserving of pity may be mitigated. Men who are so sympathetic that they cannot let the struggle for existence bring on the unworthy the sufferings consequent on their incapacity or misconduct, are so unsympathetic that they can, deliberately, make the struggle for existence harder for the worthy, and inflict on them and their children artificial evils in addition to the natural evils they have to bear!

And here we are brought round to our original topic —the sins of legislators. Here there comes clearly before us the commonest of the transgressions which rulers commit—a transgression so common, and so sanctified by custom, that no one imagines it to be a transgression. Here we see that, as indicated at the outset, Government, begotten of aggression and by aggression, ever continues to betray its original nature by its aggressiveness; and that even what on its nearer face seems beneficence only, shows, on its remoter face, not a little maleficence—kindness at the cost of cruelty. For is it not cruel to increase the sufferings of the better that the sufferings of the worse may be decreased?

It is, indeed, marvellous how readily we let ourselves be deceived by words and phrases which suggest one aspect of the facts while leaving the opposite aspect unsuggested. A good illustration of this, and one germane to the immediate question, is seen in the use of the words "protection" and "protectionist" by the antagonists of free-trade, and in the tacit admission of its propriety by free-traders. While the one party has habitually ignored, the other party has habitually failed to emphasize, the truth that this so-called pro-

tection always involves aggression; and that the name aggressionist ought to be substituted for the name protectionist. For nothing can be more certain than that if, to maintain A's profit, B is forbidden to buy of C, or is fined to the extent of the duty if he buys of C, then B is aggressed upon that A may be "protected." Nay, "aggressionists" is a title doubly more applicable to the anti-free-traders than is the euphemistic title "protectionists;" since, that one producer may gain, ten consumers are fleeced.

Now just the like confusion of ideas, caused by looking at one face only of the transaction, may be traced throughout all the legislation which forcibly takes the property of this man for the purpose of giving gratis benefits to that man. Habitually when one of the numerous measures thus characterized is discussed, the dominant thought is concerning the pitiable Jones who is to be protected against some evil; while no thought is given to the hard-working Brown who is aggressed upon, often much more to be pitied. Money is exacted (either directly or through raised rent) from the huckster who only by extreme pinching can pay her way, from the mason thrown out of work by a strike, from the mechanic whose savings are melting away during an illness, from the widow who washes or sews from dawn to dark to feed her fatherless little ones; and all that the dissolute may be saved from hunger, that the children of less impoverished neighbors may have cheap lessons, and that various people, mostly better off, may read newspapers and novels for nothing! The error of nomenclature is, in one respect, more misleading than that which allows aggressionists to be called protectionists; for, as just shown, protection of the vicious poor involves aggression on the virtuous poor. Doubtless it is true that the greater part of the money exacted comes from those who are relatively well-off. But this is no consolation to the ill-off from whom the rest is

exacted. Nay, if the comparison be made between the pressures borne by the two classes respectively, it becomes manifest that the case is even worse than at first appears; for while to the well-off the exaction means loss of luxuries, to the ill-off it means loss of necessaries.

And now see the Nemesis which is threatening to follow this chronic sin of legislators. They and their class, in common with all owners of property, are in danger of suffering from a sweeping application of that general principle practically asserted by each of these confiscating Acts of Parliament. For what is the tacit assumption on which such Acts proceed? It is the assumption that no man has any claim to his property, not even to that which he has earned by the sweat of his brow, save by permission of the community; and that the community may cancel the claim to any extent it thinks fit. No defence can be made for this appropriation of A's possessions for the benefit of B, save one which sets out with the postulate that society as a whole has an absolute right over the possessions of each member. And now this doctrine, which has been tacitly assumed, is being openly proclaimed. Mr. George and his friends, Mr. Hyndman and his supporters, are pushing the theory to its logical issue. They have been instructed by examples, yearly increasing in number, that the individual has no rights but what the community may equitably over-ride; and they are now saying—"It shall go hard but we will better the instruction," and abolish individual rights altogether.

Legislative misdeeds of the classes above indicated are in large measure explained, and reprobation of them mitigated, when we look at the matter from afar off. They have their root in the error that society is a manufacture; whereas it is a growth. Neither the culture of past times nor the culture of the present time, has given to any considerable number of people a

scientific conception of a society—a conception of it as having a natural structure in which all its institutions, governmental, religious, industrial, commercial, &c., are interdependently bound—a structure which is in a sense organic. Or if such a conception is nominally entertained, it is not entertained in such way as to be operative on conduct. Contrariwise, incorporated humanity is very commonly thought of as though it were like so much dough which the cook can mold as she pleases into pie-crust, or puff, or tartlet. The communist shows us unmistakably that he thinks of the body politic as admitting of being shaped thus or thus at will; and the tacit implication of many Acts of Parliament is that aggregated men, twisted into this or that arrangement, will remain as intended.

It may indeed be said that, even irrespective of this erroneous conception of a society as a plastic mass instead of as an organized body, facts forced on his attention hour by hour should make every one sceptical as to the success of this or that proposed way of changing a people's actions. Alike to the citizen and to the legislator, home-experiences daily supply proofs that the conduct of human beings balks calculation. He has given up the thought of managing his wife and lets her manage him. Children on whom he has tried now reprimand, now punishment, now suasion, now reward, do not respond satisfactorily to any method; and no expostulation prevents their mother from treating them in ways he thinks mischievous. So, too, his dealings with his servants, whether by reasoning or by scolding, rarely succeed for long; the falling short of attention, or punctuality, or cleanliness, or sobriety, leads to constant changes. Yet, difficult as he finds it to deal with humanity in detail, he is confident of his ability to deal with embodied humanity. Citizens, not one-thousandth of whom he knows, not one-hundredth of whom he ever saw, and the great mass of whom belong to classes having habits and modes of thought of which he has but

dim notions, he feels sure will act in ways he foresees, and fulfil ends he wishes. Is there not a marvellous incongruity between premises and conclusion?

One might have expected that whether they observed the implications of these domestic failures, or whether they contemplated in every newspaper the indications of a social life too vast, too varied, too involved, to be even vaguely pictured in thought, men would have entered on the business of law-making with the greatest hesitation. Yet in this more than anything else do they show a confident readiness. Nowhere is there so astounding a contrast between the difficulty of the task and the unpreparedness of those who undertake it. Unquestionably among monstrous beliefs one of the most monstrous is that while for a simple handicraft, such as shoemaking, a long apprenticeship is needful, the sole thing which needs no apprenticeship is making a nation's laws!

Summing up the results of the discussion, may we not reasonably say that there lie before the legislator several open secrets, which yet are so open that they ought not to remain secrets to one who undertakes the vast and terrible responsibility of dealing with millions upon millions of human beings by measures which, if they do not conduce to their happiness, will increase their miseries and accelerate their deaths?

There is first of all the undeniable truth, conspicuous and yet absolutely ignored, that there are no phenomena which a society presents but what have their origins in the phenomena of individual human life, which again have their roots in vital phenomena at large. And there is the inevitable implication that unless these vital phenomena, bodily and mental, are chaotic in their relations (a supposition excluded by the very maintenance of life) the resulting phenomena cannot be wholly chaotic: there must be some kind of order in the

phenomena which grow out of them when associated human beings have to co-operate. Evidently, then, when one who has not studied such resulting phenomena of social order, undertakes to regulate society, he is pretty certain to work mischiefs.

In the second place, apart from *a priori* reasoning, this conclusion should be forced on the legislator by comparisons of societies. It ought to be sufficiently manifest that before meddling with the details of social organization, inquiry should be made whether social organization has a natural history; and that to answer this inquiry, it would be well, setting out with the simplest societies, to see in what respects social structures agree. Such comparative sociology, pursued to a very small extent, shows a substantial uniformity of genesis. The habitual existence of chieftainship, and the establishment of chiefly authority by war; the rise everywhere of the medicine man and priest; the presence of a cult having in all places the same fundamental traits; the traces of division of labor, early displayed, which gradually become more marked; and the various complications, political, ecclesiastical, industrial, which arise as groups are compounded and recompounded by war; prove to any who compare them that, apart from all their special differences, societies have general resemblances in their modes of origin and development. They present traits of structure showing that social organization has laws which over-ride individual wills; and laws the disregard of which must be fraught with disaster.

And then, in the third place, there is that mass of guiding information yielded by the records of legislation in our own country and in other countries, which still more obviously demands attention. Here and elsewhere, attempts of multitudinous kinds, made by kings and statesmen, have failed to do the good intended and have worked unexpected evils. Century after century

new measures like the old ones, and other measures akin in principle, have again disappointed hopes and again brought disaster. And yet it is thought neither by electors nor by those they elect, that there is any need for systematic study of that law-making which in bygone ages went on working the ill-being of the people when it tried to achieve their well-being. Surely there can be no fitness for legislative functions without wide knowledge of those legislative experiences which the past has bequeathed.

Reverting, then, to the analogy drawn at the outset, we must say that the legislator is morally blameless or morally blameworthy, according as he has or has not acquainted himself with these several classes of facts. A physician who, after years of study, has gained a competent knowledge of physiology, pathology, and therapeutics, is not held criminally responsible if a man dies under his treatment: he has prepared himself as well as he can, and has acted to the best of his judgment. Similarly the legislator whose measures produce evil instead of good, notwithstanding the extensive and methodic inquiries which helped him to decide, cannot be held to have committed more than an error of reasoning. Contrariwise, the legislator who is wholly or in great part uninformed concerning the masses of facts which he must examine before his opinion on a proposed law can be of any value, and who nevertheless helps to pass that law, can no more be absolved if misery and mortality result, than the journeyman druggist can be absolved when death is caused by the medicine he ignorantly prescribes.

HERBERT SPENCER'S "SPECIALIZED ADMINISTRATION"

WITH COMMENTS BY

CHARLES W. ELIOT

MR. ELIOT'S COMMENTS

IN December, 1871, Herbert Spencer published in the *Fortnightly Review* a remarkable article which he entitled "Specialized Administration," an article which seems to have been written under strong impressions received from the Franco-Prussian war, although he does not allude to that war. It opens with a long preliminary statement to the effect that the workings out of sociological processes can never be anticipated by even the boldest use of the scientific imagination; and that their results are not achieved through previous planning and the common pursuit of public ends, but by the unintended co-operation of men who are severally pursuing their private ends.

Spencer next describes at great length the primary differentiation in organic structures into the parts which hold direct converse with the environment and the parts which do not; or, in other words, between the organs of external relation and the organs of nutrition and internal function. He declares that as fast as these two systems of organs develop, a form of control or co-ordination develops in each, and that a general distinction arises between the two controlling systems belonging to the two systems of organs. The control of the outer organs requires a complex centralized nervous apparatus to which all these organs are completely obedient. The control needed for the inner system of organs is a different and much simpler one. Between these two nervous systems there must be both a general and a special co-operation. "The general co-operation is that by which either system of

organs is enabled to stimulate the other to action" . . . "The special co-operation is one by which it would seem that each system puts an indirect restraint on the other." The different kinds of animals differ very much in regard to the relative development of these two controls that carry on respectively the outer functions and the inner.

From the animal organism, Spencer turns to the social organism, and finds in it striking analogies of structure and function with the conditions he has just described in the body of an animal. But these analogies are only between the systems or methods of organization. He is at pains to point out that in an individual organism there is but one central consciousness capable of pleasure or pain; whereas in the social organism there are as many centres as individuals.

After these preliminaries, Spencer at last arrives at his fundamental proposition—"A society, like an individual, has a set of structures fitting it to act upon its environment—appliances for attack and defence, armies, navies, fortified and garrisoned places. At the same time, a society has an industrial organization which carries on those processes that make possible the national life." Between these two sets of organs—the one for external and the other for internal activities—there is at once a co-operation and an antagonism. Thus, agriculture and manufacturing, which are secondary co-operations, in part aid one another, and yet are in part opposed to one another. As in the individual organism, so in the social organism, the outer parts must be under a rigorous central control; for the external organs, offensive and defensive, must be capable of prompt combination and effective action. The regulative apparatus required for the industrial system may be, and should be in great measure, distinct from that which regulates the external organs. Manufacturing, trade, and commerce go on best without

any governmental overseeing; without any dictation from those executive centres which are needed to combine and harmonize the actions of the outer organs. Nevertheless, there is one essential influence which the executive centres must exercise over the industrial control—a restraining influence which prevents disorder and direct or indirect aggression. This restraining influence is the sanctity of contracts, enforced by the rigorous central control provided primarily for the structures which fit a society to act upon its environment.

A society which is mainly a co-operative structure for carrying on warfare will retain the predatory type of a wandering horde of savages, with such industrial structures in addition as are needful for supporting the offensive and defensive structures. Spencer's example of this sort of social organism is Sparta; but the following sentence applies with extraordinary accuracy to the Germany of to-day: "The characteristics of such a social type are these—that each member of the ruling race is a soldier; that war is the business of life; that every one is subject to a rigorous discipline fitting him for this business; that centralized authority regulates all the social activities down to the details of each man's daily conduct; that the welfare of the State is everything, and that the individual lives for the public benefit." The traits of the industrial type of organization are that the central authority is relatively feeble, interfering but slightly with the private actions of individuals, and that the State exists for the benefit of its citizens.

In Spencer's view, a representative governing body like the British Parliament, or the American Congress, should hold the balance true between the conflicting interests of different classes in the community as well as between man and man, and by the laws that it enacts should present aggression of class upon class, or of any

class upon the whole, and provide for the administration of justice between class and class, and between man and man. A deliberative assembly is not at all fit for the despotic command of the offensive and defensive structures; but is fit to regulate or restrain the system of organs which conducts the productive, industrial, and commercial functions of a highly organized society. As in the individual organism, while the system of organs which deal with the environment must be subordinated to a governing centre which positively regulates it, the system of internal organs, by the action of which production and exchange go on and the national life is maintained, requires no such positive and continuous regulation. Thus, the far-reaching and complicated apparatus by which foods are first produced and then distributed over a great territory is best created by natural growth, and not by any determination of the State. This apparatus has been in most industrial nations created by private enterprise. Government has still some part to perform; for it must be the central power which punishes breach of contract and cheating. Spencer points out that "banks were not inventions of rulers or their counsellors. They grew up by small stages out of the transactions of traders with one another." This development by gradual growth and the co-operation of individuals seeking their own private interests, governments have over and over again obstructed in two ways,—first by neglecting their own duty to insist on fulfilment of contract, and to punish breach of contract, and, secondly, by undertaking to regulate the food industry, manufacturing industries, and the banking business. Although Spencer dwells here chiefly on the trade in food and the trade in money (banking) he expressly states that the other trades have been similarly evolved, and have been similarly deranged by State meddling.

In this characteristic article, written forty-five years

ago, Spencer maintains without reserve that the spontaneous co-operation of men in pursuit of personal benefits will adequately work out the general good, if the State discharges its plain duties of enforcing the sanctity of contracts and preventing cheating, and of securing to each citizen the enjoyment of what he obtains by labor, without trenching on his neighbor's like ability to enjoy. In support of this doctrine, he points out that the great business of engineering was developed in France by the government, which conducted two great schools of engineering; while in England there had been—down to 1870—no institution for preparing civil engineers. Nevertheless, in comparison with the development in England of engineering and of all those industries which depend on engineering, the development in France was tardy and slow. In Germany, which was already—when Spencer wrote—held up as a model nation in respect to the care of public order and public health, he observes that public water-supplies were not attained till three hundred years after they were first attained in England, and that when at last—in the middle of the nineteenth century—Berlin obtained an adequate water-supply, it was an English company and English contractors that did the work. He admits that ancient nations built some great aqueducts and roads by government action; but these achievements antedated that development of industrial structures which creates simultaneously an independent co-ordinating agency. In other words, he maintains that feeding and manufacturing organizations must have attained considerable development before the efficiency of spontaneous co-operations for all purposes of internal social life can come to exceed the efficiency of the central governing agency. He maintains also that the Press with its indispensable activities and its great services to free peoples, is not a government invention, or even a government suggestion. Indeed the

State has often attempted to put down the Press, and has all along impeded its progress. The mutual dependence of all parts of modern social organisms being assumed as a fundamental fact, it follows that there inevitably grow up arrangements by which each individual secures his own ends by ministering to the ends of others. This is the reason for Spencer's belief that "even were there no other form of spontaneous cooperation among men than that dictated by self-interest, it might be rationally held that this, under the negatively-regulative control of a central power, would work out in proper order the appliances for satisfying all needs and carrying on healthfully all the essential social functions." It is to be observed that Spencer insists that a central power, namely the government, must exert faithfully a regulative control. It is one of his oft-repeated complaints against representative government that it often fails to exert its proper regulative power.

Public events since 1871, and particularly the events in Europe and the Near East since July, 1914, have in many respects provided striking confirmations of the views which Spencer advocated in this memorable article. His contention that free governments often fail to perform their necessary regulative functions has been strikingly illustrated in the failure of Great Britain and the United States to regulate effectively, first combinations of capital, and then combinations of labor. Even under the stress of a great war, the British government has been both unable and unwilling to control the trades-unions, or even to compel them to observe, like other people, the sanctity of contracts and of other formal agreements. The war has also raised the question whether a nation which has developed its industries under an intelligent despotism is to prove itself more efficient or less efficient than nations which have developed similar industries under the operation

of what Spencer calls "spontaneous co-operation dictated by self-interest." As the war goes on, it is becoming more and more apparent that the industries and transportation systems of Great Britain and France, including the arts of public finance and private banking, are more efficient than those of Germany and Austria-Hungary. During war, however, it is evident that the central government in a free nation must take control of many industries as well as of the public forces.

Spencer does not rely wholly on the selfish or self-regarding feelings of men in order to procure effective spontaneous co-operation. He believes that, as society develops, many altruistic interests and their co-operations come to be added to the egotistic interests and the co-operations produced by them, and that the deficiencies of one set are made up in good measure by the other set,—fellow-feeling supplementing the self-regarding feelings. He cites, as instances of the good results of men's sympathetic interests, insurance companies, friendly societies, the voluntary organizations by which religious ministrations are carried on, hospitals, dispensaries, and all the voluntary charitable agencies, educational endowments, and scientific and literary societies. The following sentence contains his argument on behalf of political and social freedom against autocratic government by a dominant individual or a dominant class, "Scarcely any scientific generalization has, I think, a broader inductive basis than we have for the belief that these egoistic and altruistic feelings are powers which, taken together, amply suffice to originate and carry on all the activities which constitute healthy national life; the only prerequisite being, that they shall be under the negatively-regulative control of a central power—that the entire aggregate of individuals, acting through the legislative and the executive as its agents, shall put upon each individual,

and each group of individuals, the restraints needful to prevent aggression, direct and indirect."

One of Spencer's reasons for urging the exclusion of State action from those spheres of social activity where the spontaneous co-operations of men who are seeking both their selfish and their sympathetic ends, are more effective, is that he wishes the State to be much more efficient than it has been within its proper sphere; and this increased efficiency seems to him to imply more specialization. He says: "It is a law illustrated by organizations of every kind, that, in proportion as there is to be efficiency, there must be specialization, both of structure and function—specialization which, of necessity, implies accompanying limitation." Hence the title he gave to this prophetic article of 1871, "Specialized Administration,"—a title which is not explained to the reader until he has almost reached the end of the essay.

A postscript indicates:—first, that Spencer does not believe in the superiority of public over private administration in any field except that of war and preparation for war. Assuming that the post-office is the best case of public administration, he says that the developments which have made the post-office efficient have been thrust upon government from without, and that the improvements ordinarily come from private sources; also that a large part of the post-office work is actually done by private agencies, such as railroad and steamship companies.

Spencer's philosophic argument of 1871 touches several practical questions now in active debate:—Is the present tendency to paternalism wise? Is government ownership desirable? Is German efficiency worth its cost in German regimentation? Can durable reforms be brought about merely by making new laws? Will the free nations, or the nations which have had no experience of political and social liberty prove to be

the most efficient, vigorous, and fertile in the long run? Spencer would answer all these questions with a clear preference for the side of freedom. He would say—in all things except war and the maintenance of public forces men should be left free to effect their own spontaneous combinations for common ends, or, in other words, to co-operate in liberty under law.

SPECIALIZED ADMINISTRATION

HERBERT SPENCER

It is contrary to common-sense that fish should be more difficult to get at the sea-side than in London; but it is true, nevertheless. No less contrary to common-sense seems the truth that though, in the West Highlands, oxen are to be seen everywhere, no beef can be had without sending two or three hundred miles to Glasgow for it. Rulers who, guided by common-sense, tried to suppress certain opinions by forbidding the books containing them, never dreamed that their interdicts would cause the diffusion of these opinions; and rulers who, guided by common-sense, forbade excessive rates of interest, never dreamed that they were thereby making the terms harder for borrowers than before. When printing replaced copying, any one who had prophesied that the number of persons engaged in the manufacture of books would immensely increase, as a consequence, would have been thought wholly devoid of common-sense. And equally devoid of common-sense would have been thought any one who, when railways were displacing coaches, said that the number of horses employed in bringing passengers and goods to and from railways, would be greater than the number directly displaced by railways. Such cases might be multiplied. Whoso remembers that, among quite simple phenomena,

causes produce effects which are sometimes utterly at variance with anticipation, will see how frequently this must happen among complex phenomena. That a balloon is made to rise by the same force which makes a stone fall; that the melting of ice may be greatly retarded by wrapping the ice in a blanket; that the simplest way of setting potassium on fire is to throw it into the water; are truths which those who know only the outside aspect of things would regard as manifest falsehoods. And, if, when the factors are few and simple, the results may be so absolutely opposed to seeming probability, much more will they be often thus opposed when the factors are many and involved. The saying of the French respecting political events, that "it is always the unexpected which happens"—a saying which they have been abundantly re-illustrating of late—is one which legislators, and those who urge on schemes of legislation, should have ever in mind. Let us pause a moment to contemplate a seemingly-impossible set of results which social forces have wrought out.

Up to quite recent days, Language was held to be of supernatural origin. That this elaborate apparatus of symbols, so marvellously adapted for the conveyance of thought from mind to mind, was a miraculous gift, seemed unquestionable. No possible alternative way could be thought of by which there had come into existence these multitudinous assemblages of words of various orders, genera, and species, molded into fitness for articulating with one another, and capable of being united from moment to moment into ever-new combinations, which represent with precision each idea as it arises. The supposition that, in the slow progress of things, Language grew out of the continuous use of signs—at first mainly mimetic, afterward partly mimetic, partly vocal, and at length almost wholly vocal—was an hypothesis never even conceived by men in early stages of civilization; and when the hypothesis

was at length conceived, it was thought too monstrous an absurdity to be even entertained. Yet this monstrous absurdity proves to be true. Already the evolution of Language has been traced back far enough to show that all its particular words, and all its leading traits of structure, have had a natural genesis; and day by day investigation makes it more manifest that its genesis has been natural from the beginning. Not only has it been natural from the beginning, but it has been spontaneous. No language is a cunningly-devised scheme of a ruler or body of legislators. There was no council of savages to invent the parts of speech, and decide on what principles they should be used. Nay, more. Going on without any authority or appointed regulation, this natural process went on without any man observing that it was going on. Solely under pressure of the need for communicating their ideas and feelings—solely in pursuit of their personal interests—men little by little developed speech in absolute unconsciousness that they were doing anything more than pursuing their personal interests. Even now the unconsciousness continues. Take the whole population of the globe, and there is probably not above one in a million who knows that in his daily talk he is carrying on the process by which Language has been evolved.

I commence thus by way of giving the key-note to the argument which follows. My general purpose, in dwelling a moment on this illustration, has been that of showing how utterly beyond the conceptions of common-sense, literally so called, and even beyond the conceptions of cultivated common-sense, are the workings-out of sociological processes—how these workings-out are such that even those who have carried to the uttermost "the scientific use of the imagination," would never have anticipated them. And my more special purpose has been that of showing how marvellous are the results indirectly and unintentionally achieved by

the co-operation of men who are severally pursuing their private ends. Let me pass now to the particular topic to be here dealt with.

I have greatly regretted to see Prof. Huxley strengthening, by his deservedly high authority, a school of politicians which can scarcely be held to need strengthening: its opponents being so few. I regret it the more because, thus far, men prepared for the study of Sociology by previous studies of Biology and Psychology, have scarcely expressed any opinions on the question at issue; and that Prof. Huxley, who by both general and special culture is so eminently fitted to judge, should have come to the conclusions set forth in the last number of the *Fortnightly Review*, will be discouraging to the small number who have reached opposite conclusions. Greatly regretting however, though I do, this avowed antagonism of Prof. Huxley to a general political doctrine with which I am identified, I do not propose to make any reply to his arguments at large: being deterred partly by reluctance to dwell on points of difference with one whom I so greatly admire, and partly by the consciousness that what I should say would be mainly a repetition of what I have explicitly or implicitly said elsewhere. But with one point raised I feel obliged to deal. Prof. Huxley tacitly puts to me a question. By so doing he leaves me to choose between two alternatives, neither of which is agreeable to me. I must either, by leaving it unanswered, accept the implication that it is unanswerable, and the doctrine I hold untenable: or else I must give it an adequate answer. Little as I like it, I see that the latter of these alternatives is that which, on public as well as on personal grounds, I must accept.

Had I been allowed to elaborate more fully the *Review* article from which Prof. Huxley quotes, this question would possibly not have been raised. That article

closes with the following words:—"We had hoped to say something respecting the different types of social organization, and something also on social metamorphoses; but we have reached our assigned limits." These further developments of the conception—developments to be hereafter set forth in the *Principles of Sociology*—I must here sketch in outline before my answer can be made intelligible. In sketching them, I must say much that would be needless were my answer addressed to Prof. Huxley only. Bare allusions to general phenomena of organization, with which he is immeasurably more familiar than I am, would suffice. But, as the sufficiency of my answer has to be judged by the general reader, the general reader must be supplied with the requisite data: my presentation of them being under correction from Prof. Huxley if it is inaccurate.

The primary differentiation in organic structures, manifested alike in the history of each organism and in the history of the organic world as a whole, is the differentiation between outer and inner parts—the parts which hold direct converse with the environment and the parts which do not hold direct converse with the environment. We see this alike in those smallest and lowest forms improperly, though suggestively, sometimes called unicellular, and also in the next higher division of creatures which, with considerable reason, are regarded as aggregations of the lower. In these creatures the body is divisible into endoderm and ectoderm, differing very little in their characters, but serving the one to form the digestive sac, and the other to form the outer wall of the body. As Prof. Huxley describes them in his *Oceanic Hydrozoa*, these layers represent respectively the organs of nutrition and the organs of external relation—generally, though not universally; for there are exceptions, especially among

parasites. In the embryos of higher types, these two layers severally become double by the splitting of a layer formed between them; and from the outer double layer is developed the body-wall with its limbs, nervous system, senses, muscles, etc.; while from the inner double layer there arise the alimentary canal and its appendages, together with the heart and lungs. Though in such higher types these two systems of organs, which respectively absorb nutriment and expend nutriment, become so far connected by ramifying blood-vessels and nerves that this division cannot be sharply made, still the broad contrast remains. At the very outset, then, there arises this separation, which implies at once a co-operation and an antagonism—a co-operation, because, while the outer organs secure for the inner organs the crude food, the inner organs elaborate and supply to the outer organs the prepared materials by which they are enabled to do their work; and an antagonism, because each set of organs, living and growing at the cost of these prepared materials, cannot appropriate any portion of the total supply without diminishing by so much the supply available for the other. This general co-operation and general antagonism becomes complicated with special co-operations and special antagonisms, as fast as these two great systems of organs develop. The originally simple alimentary canal, differentiating into many parts, becomes a congeries of structures which, by co-operation, fulfil better their general function, but between which there nevertheless arise antagonisms; since each has to make good its waste and to get matter for growth, at the cost of the general supply of nutriment available for them all. Similarly, as fast as the outer system develops into special senses and limbs, there arise among these, also, secondary co-operations and secondary antagonisms. By their variously-combined actions, food is obtained more effectually; and yet the ac-

tivity of each set of muscles, or each directive-nervous structure, entails a draft upon the stock of prepared nutriment which the outer organs receive, and is by so much at the cost of the rest. Thus the method of organization, both in general and in detail, is a simultaneous combination and opposition. All the organs unite in subserving the interests of the organism they form; and yet they have all their special interests, and compete with one another for blood.

A form of government, or control, or co-ordination, develops as fast as these systems of organs develop. Eventually this becomes double. A general distinction arises between the two controlling systems belonging to the two great systems of organs. Whether the inner controlling system is or is not originally derived from the outer, matters not to the argument—when developed it is in great measure independent.[1] If we contemplate their respective sets of functions, we shall perceive the origin of this distinction. That the outer organs may co-operate effectively for the purposes of catching prey, escaping danger, etc., it is needful that they should be under a government capable of directing their combined actions, now in this way and now in that, according as outer circumstances vary. From instant to instant there must be quick adjustments to occa-

[1] Here, and throughout the discussion, I refer to these controlling systems only as they exist in the *Vertebrata,* because their relations are far better known in this great division of the animal kingdom—not because like relations do not exist elsewhere. Indeed, in the great sub-kingdom *Annulosa,* these controlling systems have relations that are extremely significant to us here. For while an inferior annulos animal has only a single set of nervous structures, a superior annulos animal (as a moth) has a set of nervous structures presiding over the viscera, as well as a more conspicuous set presiding over the organs of external relation. And this contrast is analogous to one of the contrasts between undeveloped and developed societies; for, while among the uncivilized and incipiently civilized there is but a single set of directive agencies, there are among the fully civilized, as we shall presently see, two sets of directive agencies, for the outer and inner structures respectively.

sions that are more or less new; and hence there requires a complex and centralized nervous apparatus, to which all these organs are promptly and completely obedient. The government needful for the inner system of organs is a different and much simpler one. When the food obtained by the outer organs has been put into the stomach, the co-operation required of the viscera, though it varies somewhat as the quantity or kind of food varies, has nevertheless a general uniformity; and it is required to go on in much the same way whatever the outer circumstances may be. In each case the food has to be reduced to a pulp, supplied with various solvent secretions, propelled onward, and its nutritive part taken up by absorbent surfaces. That these processes may be effective, the organs which carry them on must be supplied with fit blood; and to this end the heart and the lungs have to act with greater vigor. This visceral co-operation, carried on with this comparative uniformity, is regulated by a nervous system which is to a large extent independent of that higher and more complex nervous system controlling the external organs. The act of swallowing is, indeed, mainly effected by the higher nervous system; but, being swallowed, the food affects by its presence the local nerves, through them the local ganglia, and indirectly, through nervous connections with other ganglia, excites the rest of the viscera into co-operative activity. It is true that the functions of the sympathetic or ganglionic nervous system, or "nervous system of organic life," as it is otherwise called, are imperfectly understood. But, since we know positively that some of its plexuses, as the cardiac, are centres of local stimulation and co-ordination, which can act independently, though they are influenced by higher centres, it is fairly to be inferred that the other and still larger plexuses, distributed among the viscera, are also such local and largely independent centres; especially as the nerves

they send into the viscera, to join the many subordinate ganglia distributed through them, greatly exceed in quantity the cerebro-spinal fibres accompanying them. Indeed, to suppose otherwise is to leave unanswered the question—What are their functions? as well as the question—How are these unconscious visceral co-ordinations effected? There remains only to observe the kind of co-operation which exists between the two nervous systems. This is both a general and a special co-operation. The general co-operation is that by which either system of organs is enabled to stimulate the other to action. The alimentary canal yields through certain nervous connections the sensation of hunger to the higher nervous system; and so prompts efforts for procuring food. Conversely, the activity of the nervo-muscular system, or, at least, its normal activity, sends inward to the cardiac and other plexuses a gush of stimulus which excites the viscera to action. The special co-operation is one by which it would seem that each system puts an indirect restraint on the other. Fibres from the sympathetic accompany every artery throughout the organs of external relation, and exercise on the artery a constrictive action; and the converse is done by certain of the cerebro-spinal fibres which ramify with the sympathetic throughout the viscera: through the vagus and other nerves, an inhibitory influence is exercised on the heart, intestines, pancreas, etc. Leaving doubtful details, however, the fact which concerns us here is sufficiently manifest. There are, for these two systems of organs, two nervous systems, in great measure independent; and, if it is true that the higher system influences the lower, it is no less true that the lower very powerfully influences the higher. The restrictive action of the sympathetic upon the circulation, throughout the nervo-muscular system, is unquestionable; and it is possibly through this that, when the viscera have much work to do, the nervo-mus-

cular system is incapacitated in so marked a manner.[1]

The one further fact here concerning us is the contrast presented in different kinds of animals, between the degrees of development of these two great sets of structures that carry on respectively the outer functions and the inner functions. There are active creatures in which the locomotive organs, the organs of sense, together with the nervous apparatus which combines their actions, bear a large ratio to the organs of alimentation and their appendages; while there are inactive creatures in which these organs of external relation bear a very small ratio to the organs of alimentation. And a remarkable fact, here especially instructive to us, is that very frequently there occurs a metamorphosis, which has for its leading trait a great change in the ratio of these two systems—a metamorphosis which accompanies a great change in the mode of life. The most familiar metamorphosis is variously illustrated among insects. During the early or larval stage of a butterfly, the organs of alimentation are largely developed, while the organs of external relation are but little developed; and then, during a period of quiescence, the organs of external relation undergo

[1] To meet the probable objection that the experiments of Bernard, Ludwig, and others, show that in the case of certain glands the nerves of the cerebro-spinal system are those which set up the secreting process, I would remark that in these cases, and in many others where the relative functions of the cerebro-spinal nerves and the sympathetic nerves have been studied, the organs have been those in which *sensation* is either the stimulus to activity or its accompaniment; and that from these cases no conclusion can be drawn applying to the cases of those viscera which normally perform their functions without sensation. Perhaps it may even be that the functions of those sympathetic fibres which accompany the arteries of the outer organs are simply ancillary to those of the central parts of the sympathetic system, which stimulate and regulate the viscera—ancillary in this sense, that they check the diffusion of blood in external organs when it is wanted in internal organs: cerebro-spinal inhibition (except in its action on the heart) working the opposite way. And possibly this is the instrumentality for carrying on that competition for nutriment which, as we saw, arises at the very outset between these two great systems of organs.

an immense development, making possible the creature's active and varied adjustments to the surrounding world, while the alimentary system becomes relatively small. On the other hand, among the lower invertebrate animals there is a very common metamorphosis of an opposite kind. When young, the creature, with scarcely any alimentary system, but supplied with limbs and sense organs, swims about actively. Presently it settles in a *habitat* where food is to be obtained without moving about, loses in great part its organs of external relation, develops its visceral system, and, as it grows, assumes a nature utterly unlike that which it originally had—a nature adapted almost exclusively to alimentation and the propagation of the species.

Let us turn now to the social organism, and the analogies of structure and function which may be traced in it. Of course these analogies between the phenomena presented in a physically coherent aggregate forming an individual, and the phenomena presented in a physically incoherent aggregate of individuals distributed over a wide area, cannot be analogies of a visible or sensible kind; but can only be analogies between the systems, or methods, of organization. Such analogies as exist result from the one unquestionable community between the two organizations: *there is in both a mutual dependence of parts.* This is the origin of all organization; and determines what similarities there are between an individual organism and a social organism. Of course the similarities thus determined are accompanied by transcendent differences, determined, as above said, by the unlikenesses of the aggregates. One cardinal difference is that, while in the individual organism there is but one centre of consciousness capable of pleasure or pain, there are, in the social organism, as many such centres as there are individuals, and the aggregate of them has

no consciousness of pleasure or pain—a difference which entirely changes the ends to be pursued. Bearing in mind this qualification, let us now glance at the parallelisms indicated.

A society, like an individual, has a set of structures fitting it to act upon its environment—appliances for attack and defence, armies, navies, fortified and garrisoned places. At the same time, a society has an industrial organization which carries on all those processes that make possible the national life. Though these two sets of organs for external activity and internal activity do not bear to one another just the same relation which the outer and inner organs of an animal do (since the industrial structures in a society supply themselves with raw materials, instead of being supplied by the external organs), yet they bear a relation otherwise similar. There is at once a co-operation and an antagonism. By the help of the defensive system the industrial system is enabled to carry on its functions without injury from foreign enemies; and by the help of the industrial system, which supplies it with food and materials, the defensive system is enabled to maintain this security. At the same time the two systems are opposed in so far that they both depend for their existence upon the common stock of produce. Further, in the social organism, as in the individual organism, this primary co-operation and antagonism subdivides into secondary co-operations and antagonisms. If we look at the industrial organization, we see that its agricultural part and its manufacturing part aid one another by the exchange of their products, and are yet otherwise opposed to one another; since each takes of the other's products the most it can get in return for its own products. Similarly throughout the manufacturing system itself. Of the total returns secured by Manchester for its goods, Liverpool obtains as much as possible for the raw material,

and Manchester gives as little as possible—the two at the same time co-operating in secreting for the rest of the community the woven fabrics it requires, and in jointly obtaining from the rest of the community the largest payment in other commodities. And thus it is in all kinds of direct and indirect ways throughout the industrial structures. Men prompted by their own needs as well as those of their children, and bodies of such men more or less aggregated, are quick to find every unsatisfied need of their fellow-men, and to satisfy it in return for the satisfaction of their own needs; and the working of this process is inevitably such that the strongest need, ready to pay the most for satisfaction, is that which draws most workers to satisfy it, so that there is thus a perpetual balancing of the needs and of the appliances which subserve them.

This brings us to the regulative structures under which these two systems of co-operating parts work. As in the individual organism, so in the social organism, the outer parts are under a rigorous central control. For adjustment to the varying and incalculable changes in the environment, the external organs, offensive and defensive, must be capable of prompt combination; and that their actions may be quickly combined to meet each exigency as it arises, they must be completely subordinated to a supreme executive power: armies and navies must be despotically controlled. Quite otherwise is it with the regulative apparatus required for the industrial system. This, which carries on the nutrition of a society, as the visceral system carries on the nutrition of an individual, has a regulative apparatus in great measure distinct from that which regulates the external organs. It is not by any "order in council" that farmers are determined to grow so much wheat and so much barley, or to divide their land in due proportion between arable and pasture. There requires no telegram from the Home Office to

alter the production of woollens in Leeds, so that it may be properly adjusted to the stocks on hand and the forthcoming crop of wool. Staffordshire produces its due quantity of pottery, and Sheffield sends out cutlery with rapidity adjusted to the consumption, without any legislative stimulus or restraint. The spurs and checks to production which manufacturers and manufacturing centres receive, have quite another origin. Partly by direct orders from distributors and partly by the indirect indications furnished by the market reports throughout the kingdom, they are prompted to secrete actively or to diminish their rates of secretion. The regulative apparatus by which these industrial organs are made to co-operate harmoniously, acts somewhat as the sympathetic does in a vertebrate animal. There is a system of communications among the great producing and distributing centres, which excites or retards as the circumstances vary. From hour to hour messages pass between all the chief provincial towns, as well as between each of them and London; from hour to hour prices are adjusted, supplies are ordered hither or thither, and capital is drafted from place to place, according as there is greater or less need for it. All this goes on without any ministerial overseeing—without any dictation from those executive centres which combine the actions of the outer organs. There is, however, one all-essential influence which these higher centres exercise over the industrial activities—a restraining influence which prevents aggression, direct and indirect. The condition under which only these producing and distributing processes can go on healthfully, is that, wherever there is work and waste, there shall be a proportionate supply of materials for repair. And securing this is nothing less than securing fulfilment of contracts. Just in the same way that a bodily organ which performs function, but is not adequately paid in blood, must

dwindle, and the organism as a whole eventually suffer; so an industrial centre which has made and sent out its special commodity, but does not get adequately paid in other commodities, must decay. And when we ask what is requisite to prevent this local innutrition and decay, we find the requisite to be that agreements shall be carried out; that goods shall be paid for at the stipulated prices; that justice shall be administered.

One further leading parallelism must be described—that between the metamorphoses which occur in the two cases. These metamorphoses are analogous in so far that they are changes in the ratios of the inner and outer systems of organs; and also in so far as they take place under analogous conditions. At the one extreme we have that small and simple type of society which a wandering horde of savages presents. This is a type almost wholly predatory in its organization. It consists of little else than a co-operative structure for carrying on warfare—the industrial part is almost absent, being represented only by the women. When the wandering tribe becomes a settled tribe, an industrial organization begins to show itself—especially where, by conquest, there has been obtained a slave-class that may be forced to labor. The predatory structure, however, still for a long time predominates. Omitting the slaves and the women, the whole body politic consists of parts organized for offence and defence, and is efficient in proportion as the control of them is centralized. Communities of this kind, continuing to subjugate their neighbors, and developing an organization of some complexity, nevertheless retain a mainly-predatory type, with just such industrial structures as are needful for supporting the offensive and defensive structures. Of this Sparta furnished a good example. The characteristics of such a social type are these—that each member of the ruling race is a soldier; that war is the business of life; that every

one is subject to a rigorous discipline fitting him for this business; that centralized authority regulates all the social activities, down to the details of each man's daily conduct; that the welfare of the State is everything, and that the individual lives for public benefit. So long as the environing societies are such as necessitate and keep in exercise the militant organization, these traits continue; but when, mainly by conquest and the formation of large aggregates, the militant activity becomes less constant, and war ceases to be the occupation of every free man, the industrial structures begin to predominate. Without tracing the transition, it will suffice to take, as a sample of the pacific or industrial type, the Northern States of America before the late war. Here military organization had almost disappeared; the infrequent local assemblings of militia had turned into occasions for jollity, and everything martial had fallen into contempt. The traits of the pacific or industrial type are these—that the central authority is relatively feeble; that it interferes scarcely at all with the private actions of individuals; and that the State, instead of being that for the benefit of which individuals exist, has become that which exists for the benefit of individuals.

It remains to add that this metamorphosis, which takes place in societies along with a higher civilization, very rapidly retrogrades if the surrounding conditions become unfavorable to it. During the late war in America, Mr. Seward's boast—"I touch this bell, and any man in the remotest States is a prisoner of the Government" (a boast which was not an empty one, and which was by many of the Republican party greatly applauded)—shows us how rapidly, along with militant activities, there tends to be resumed the needful type of centralized structure; and how there quickly grow up the corresponding sentiments and ideas. Our own history since 1815 has shown a double change of this

kind. During the thirty years' peace, the militant organization dwindled, the military sentiment greatly decreased, the industrial organization rapidly developed, the assertion of the individuality of the citizen became more decided, and many restrictive and despotic regulations were got rid of. Conversely, since the revival of militant activities and structures on the Continent, our own offensive and defensive structures have been re-developing; and the tendency toward increase of that centralized control which accompanies such structures has become marked.

And now, closing this somewhat elaborate introduction, I am prepared to deal with the question put to me. Prof. Huxley, after quoting some passages from that essay on the "Social Organism" which I have supplemented in the foregoing paragraphs; and after expressing a qualified concurrence which I greatly value as coming from so highly fitted a judge, proceeds, with characteristic acumen, to comment on what seems an incongruity between certain analogies set forth in that essay, and the doctrine I hold respecting the duty of the State. Referring to a passage in which I have described the function of the individual brain as "that of *averaging* the interests of life, physical, intellectual, moral, social," and have compared it to the function of Parliament as "that of *averaging* the interests of the various classes in a community," adding that "a good Parliament is one in which the parties answering to these respective interests are so balanced that their united legislation concedes to each class as much as consists with the claims of the rest;" Prof. Huxley proceeds to say:—

"All this appears to be very just. But if the resemblances between the body physiological and the body politic are any indication, not only of what the latter

is, and how it has become what it is, but what it ought to be, and what it is tending to become, I cannot but think that the real force of the analogy is totally opposed to the negative view of State function.

"Suppose that, in accordance with this view, each muscle were to maintain that the nervous system had no right to interfere with its contraction, except to prevent it from hindering the contraction of another muscle; or each gland, that it had a right to secrete, so long as its secretion interfered with no other; suppose every separate cell left free to follow its own "interests," and *laissez-faire* Lord of all, what would become of the body physiological?"

On this question the remark I have first to make is, that if I held the doctrine of M. Proudhon, who deliberately named himself an "anarchist," and if along with this doctrine I held the above-indicated theory of social structures and functions, the inconsistency implied by the question put would be clear, and the question would be unanswerable. But since I entertain no such view as that of Proudhon—since I hold that within its proper limits governmental action is not simply legitimate but all-important—I do not see how I am concerned with a question which tacitly supposes that I deny the legitimacy and the importance. Not only do I contend that the restraining power of the State over individuals, and bodies or classes of individuals, is requisite, but I have contended that it should be exercised much more effectually, and carried out much further, than at present.[1] And as the maintenance of this control implies the maintenance of a controlling apparatus, I do not see that I am placed in any difficulty when I am asked what would happen were the controlling apparatus forbidden to interfere.

[1] See *Social Statics*, chap. xxi., "The Duty of the State." See also essay on "Over-Legislation."

Further, on this general aspect of the question I have to say that, by comparing the deliberative assembly of a nation to the deliberative nervous centre of a vertebrate animal, as respectively averaging the interests of the society and of the individual, and as both doing this through processes of representation, I do not mean to *identify* the two sets of interests; for these in a society (or at least a peaceful society) refer mainly to interior actions, while in an individual creature they refer mainly to exterior actions. The "interests" to which I refer, as being averaged by a representative governing body, are the conflicting interests between class and class, as well as between man and man—conflicting interests the balancing of which is nothing but the preventing of aggression and the administration of justice.

I pass now from this general aspect of the question, which does not concern me, to a more special aspect which does concern me. Dividing the actions of governing structures, whether in bodies individual or bodies politic, into the *positively regulative* and the *negatively regulative*, or those which stimulate and direct, as distinguished from those which simply restrain, I may say that if there is raised the question—What will happen when the controlling apparatus does not act? there are quite different replies according as one or other system of organs is referred to. If, in the individual body, the muscles were severally independent of the deliberative and executive centres, utter impotence would result: in the absence of muscular co-ordination, there would be no possibility of standing, much less of acting on surrounding things, and the body would be a prey to the first enemy. Properly to combine the actions of these outer organs, the great nervous centres must exercise functions that are both positively regulative and negatively regulative—must both command action and arrest action. Similarly with the

outer organs of a political body. Unless the offensive and defensive structures can be despotically commanded by a central authority, there cannot be those prompt combinations and adjustments required for meeting the variable actions of external enemies. But if, instead of asking what would happen supposing the outer organs in either case were without control from the great governing centres, we ask what would happen were the inner organs (the industrial and commercial structures in the one case, and the alimentary and distributive in the other) without such control, the answer is quite different. Omitting the respiratory and some minor ancillary parts of the individual organism, to which the social organism has nothing analogous; and limiting ourselves to absorptive, elaborative, and distributive structures, which are found in both; it may, I think, be successfully contended that in neither the one case nor the other do they require the positively regulative control of the great governing centres, but only the negatively regulative. Let us glance at the facts.[1]

Digestion and circulation go on very well in lunatics and idiots, though the higher nervous centres are either deranged or partly absent. The vital functions proceed properly during sleep, though less actively than when the brain is at work. In infancy, while the cerebro-spinal system is almost incapable, and cannot

[1] Lest there should be any misunderstanding of the terms *positively regulative* and *negatively regulative*, let me briefly illustrate them. If a man has land, and I either cultivate it for him, partially or wholly, or dictate any or all of his modes of cultivation, my action is positively regulative; but if, leaving him absolutely unhelped and unregulated in his farming, I simply prevent him from taking his neighbor's crops, or from making approach-roads over his neighbor's land, or from depositing rubbish upon it, my action is negatively regulative. There is a tolerably sharp distinction between the act of securing a citizen's ends for him or interfering with his mode of securing them, and the act of checking him when he interferes with another citizen in the pursuit of his ends.

even perform such simple actions as those of commanding the sphincters, the visceral functions are active and regular. Nor in an adult does that arrest of cerebral action shown by insensibility, or that extensive paralysis of the spinal system which renders all the limbs immovable, prevent these functions from being carried on for a considerable time; though they necessarily begin to flag in the absence of the demand which an active system of outer organs makes upon them. These internal organs are, indeed, so little under the positively directive control of the great nervous centres, that their independence is often very inconvenient. No mandate sent into the interior stops an attack of diarrhœa; nor, when an indigestible meal excites the circulation at night, and prevents sleep, will the bidding of the brain cause the heart to pulsate more quietly. It is doubtless true that these vital processes are modified in important ways, both by general stimulation and by inhibition, from the cerebro-spinal system; but that they are mainly independent cannot, I think, be questioned. The facts that peristaltic motion of the intestines can go on when their nervous connections are cut, and that the heart (in cold-blooded vertebrates, at least) continues to pulsate for some time after being detached from the body, make it manifest that the spontaneous activities of these vital organs subserve the wants of the body at large without direction from its higher governing centres. And this is made even more manifest if it be a fact, as alleged by Schmulewitsch experimenting under Ludwig's direction, that, under duly-adjusted conditions, the secretion of bile may be kept up for some time when blood is passed through the excised liver of a newly-killed rabbit. There is an answer, not, I think, unsatisfactory, even to the crucial part of the question—"Suppose every separate cell left free to follow its own interests, and *laissez faire* Lord of all, what would become of the body physiological?"

Limiting the application of this question in the way above shown to the organs and parts of organs which carry on vital actions, it seems to me that much evidence may be given for the belief that, when they follow their respective "interests" (limited here to growing and multiplying), the general welfare will be tolerably well secured. It was proved by Hunter's experiments on a kite and a sea-gull, that a part of the alimentary canal which has to triturate harder food than that which the creature naturally eats, acquires a thicker and harder lining. When a stricture of the intestine impedes the passage of its contents, the muscular walls of the intestine above thicken and propel the contents with greater force. When there is somewhere in the course of the circulation a serious resistance to the passage of blood, there habitually occurs hypertrophy of the heart, or thickening of its muscular walls; giving it greater power to propel the blood. And similarly, when the duct through which it discharges its contents is obstructed, the gall-bladder thickens and strengthens. These changes go on without any direction from the brain—without any consciousness that they are going on. They are effected by the growth, or multiplication, or adaptation, of the local units, be they cells or fibres, which results from the greater action or modified action thrown upon them. The only prerequisite to this spontaneous adaptive change is, that these local units shall be supplied with extra blood in proportion as they perform extra function—a prerequisite answering to that secured by the administration of justice in a society; namely, that more work shall bring more pay. If, however, direct proof be called for that a system of organs may, by carrying on their several independent activities uncontrolled, secure the welfare of the aggregate they form, we have it in that extensive class of creatures which do not possess any nervous systems at all; and which never-

theless show, some of them, considerable degrees of activity. The Oceanic Hydrozoa supply good examples. Notwithstanding "the multiplicity and complexity of the organs which some of them possess," these creatures have no nervous centres—no regulative apparatus by which the actions of their organs are co-ordinated. One of their higher kinds is composed of different parts distinguished as cœnosarc, polypites, tentacles, hydrocysts, nectocalyces, genocalyces, etc., and each of these different parts is composed of many partially-independent units—thread-cells, ciliated cells, contractile fibres, etc.; so that the whole organism is a group of heterogeneous groups, each one of which is itself a more or less heterogeneous group. And, in the absence of a nervous system, the arrangement must necessarily be such that these different units, and different groups of units, severally pursuing their individual lives without positive direction from the rest, nevertheless do, by virtue of their constitutions, and the relative positions into which they have grown, co-operate for the maintenance of one another and the entire aggregate. And if this can be so with a set of organs that are not connected by nerves, much more can it be so with a set of organs which, like the viscera of a higher animal, have a special set of nervous communications for exciting one another to co-operation.

Let us turn now to the parallel classes of phenomena which the social organism presents. In it, as in the individual organism, we find that while the system of external organs must be rigorously subordinated to a great governing centre which positively regulates it, the system of internal organs needs no such positive regulation. The production and interchange by which the national life is maintained, go on as well while Parliament is not sitting as while it is sitting. When the members of the Ministry are following grouse or stalking deer, Liverpool imports, Manchester manufactures,

London distributes, just as usual. All that is needful for the normal performance of these internal social functions is, that the restraining or inhibitory structures shall continue in action: these activities of individuals, corporate bodies, and classes, must be carried on in such ways as not to transgress certain conditions, necessitated by the simultaneous carrying on of other activities. So long as order is maintained, and the fulfilment of contracts is everywhere enforced—so long as there is secured to each citizen, and each combination of citizens, the full return agreed upon for work done or commodities produced; and so long as each may enjoy what he obtains by labor, without trenching on his neighbor's like ability to enjoy; these functions will go on healthfully—more healthfully, indeed, than when regulated in any other way. Fully to recognize this fact, it is needful only to look at the origins and actions of the leading industrial structures. We will take two of them, the most remote from one another in their natures.

The first shall be those by which food is produced and distributed. In the fourth of his *Introductory Lectures on Political Economy*, Archbishop Whately remarks that:—

"Many of the most important objects are accomplished by the joint agency of persons who never think of them, nor have any idea of acting in concert; and that, with a certainty, completeness, and regularity, which probably the most diligent benevolence, under the guidance of the greatest human wisdom, could never have attained."

To enforce this truth he goes on to say:—"Let any one propose to himself the problem of supplying with daily provisions of all kinds such a city as our metropolis, containing above a million of inhabitants."

And then he points out the many immense difficulties of the task caused by inconstancy in the arrival of supplies; by the perishable nature of many of the commodities; by the fluctuating number of consumers; by the heterogeneity of their demands; by variations in the stocks, immediate and remote, and the need for adjusting the rate of consumption; and by the complexity in the process of distribution required to bring due quantities of these many commodities to the homes of all citizens. And, having dwelt on these many difficulties, he finishes his picture by saying:—

"Yet this object is accomplished far better than it could be by any effort of human wisdom, through the agency of men who think each of nothing beyond his own immediate interest—who, with that object in view, perform their respective parts with cheerful zeal—and combine unconsciously to employ the wisest means for effecting an object, the vastness of which it would bewilder them even to contemplate."

But though the far-spreading and complex organization by which foods of all kinds are produced, prepared, and distributed throughout the entire kingdom, is a natural growth and not a State-manufacture; though the State does not determine where and in what quantities cereals and cattle and sheep shall be reared; though it does not arrange their respective prices so as to make supplies last until fresh supplies can come; though it has done nothing toward causing that great improvement of quality which has taken place in food since early times; though it has not the credit of that elaborate apparatus by which bread, and meat, and milk, come round to our doors with a daily pulse that is as regular as the pulse of the heart; yet the State has not been wholly passive. It has from time to time done a great deal of mischief. When Edward I. for-

bade all towns to harbor forestallers, and when Edward VI. made it penal to buy grain for the purpose of selling it again, they were preventing the process by which consumption is adjusted to supply: they were doing all that could be done to insure alternations of abundance and starvation. Similarly with the many legislative attempts since made to regulate one branch or other of the food-industry, down to the corn-law sliding-scale of odious memory. For the marvellous efficiency of this organization we are indebted to private enterprise; while the derangements of it we owe to the positively-regulative action of the Government. Meanwhile, its negatively-regulative action, required to keep this organization in order, Government has not duly performed. A quick and costless remedy for breach of contract, when a trader sells, as the commodity asked for, what proves to be wholly or in part some other commodity, is still wanting.

Our second case shall be the organization which so immensely facilitates commerce by transfers of claims and credits. Banks were not inventions of rulers or their counsellors. They grew up by small stages out of the transactions of traders with one another. Men who for security deposited money with goldsmiths, and took receipts; goldsmiths who began to lend out at interest the moneys left with them, and then to offer interest at lower rates to those who would deposit money; were the founders of them. And when, as presently happened, the receipt-notes became transferable by indorsement, banking commenced. From that stage upward the development, notwithstanding many hindrances, has gone on naturally. Banks have sprung up under the same stimulus which has produced all other kinds of trading bodies. The multiplied forms of credit have been gradually differentiated from the original form; and while the banking system has spread and become complex, it has also become consolidated into a

whole by a spontaneous process. The clearing-house, which is a place for carrying on the banking between bankers, arose unobtrusively out of an effort to economize time and money. And when, in 1862, Sir John Lubbock—not in his legislative capacity but in his capacity as banker—succeeded in extending the privileges of the clearing-house to country banks, the unification was made perfect; so that now the transactions of any trader in the kingdom with any other may be completed by the writing off and balancing of claims in bankers' books. This natural evolution, be it observed, has reached with us a higher phase than has been reached where the positively-regulative control of the State is more decided. They have no clearing-house in France; and in France the method of making payments by checks, so dominant among ourselves, is very little employed and in an imperfect way. I do not mean to imply that in England the State has been a mere spectator of this development. Unfortunately, it has from the beginning had relations with banks and bankers: not much, however, to their advantage, or that of the public. The first kind of deposit-bank was in some sense a State-bank: merchants left funds for security at the Mint in the Tower. But when Charles I. appropriated their property without consent, and gave it back to them only under pressure, after a long delay, he destroyed their confidence. Similarly, when Charles II., in furtherance of State-business, came to have habitual transactions with the richer of the private bankers; and when, having got nearly a million and a half of their money in the Exchequer, he stole it, ruined a multitude of merchants, distressed ten thousand depositors, and made some lunatics and suicides, he gave a considerable shock to the banking system as it then existed. Though the results of State-relations with banks in later times have not been so disastrous in this direct way, yet they have been indirectly disastrous—

perhaps even in a greater degree. In return for a loan, the State gave the Bank of England special privileges; and for the increase and continuance of this loan the bribe was the maintenance of these privileges—privileges which immensely hindered the development of banks. The State did worse. It led the Bank of England to the verge of bankruptcy by a forced issue of notes, and then authorized it to break its promises to pay. Nay, worse still, it prevented the Bank of England from fulfilling its promises to pay when it wished to fulfil them. The evils that have arisen from the positively-regulative action of the State on banks are too multitudinous to be here enumerated. They may be found in the writings of Tooke, Newmarch, Fullarton, Macleod, Wilson, J. S. Mill, and others. All we have here to note is, that while the enterprise of citizens in the pursuit of private ends has developed this great trading-process, which so immensely facilitates all other trading-processes, Governments have over and over again disturbed it to an almost fatal extent; and that, while they have done enormous mischief of one kind by their positively-regulative action, they have done enormous mischief of another kind by failing in their negatively-regulative action. They have not done the one thing they had to do: they have not uniformly insisted on fulfilment of contract between the banker and the customer who takes his promise to pay on demand.

Between these two cases of the trade in food and the trade in money, might be put the cases of other trades: all of them carried on by organizations similarly evolved, and similarly more or less deranged from time to time by State-meddling. Passing over these, however, let us turn from the positive method of elucidation to the comparative method. When it is questioned whether the spontaneous co-operation of men in pursuit of personal benefits will adequately work

out the general good, we may get guidance for judgment by comparing the results achieved in countries where spontaneous co-operation has been most active and least regulated, with the results achieved in countries where spontaneous co-operation has been less trusted and State-action more trusted. Two cases, furnished by the two leading nations on the Continent, will suffice.

In France, the École des Ponts et Chaussées was founded in 1747 for educating civil engineers; and in 1795 was founded the École Polytechnique, serving, among other purposes, to give a general scientific training to those who were afterward to be more specially trained for civil engineering. Averaging the two dates, we may say that for a century France has had a State-established and State-maintained appliance for producing skilled men of this class—a double gland, we may call it, to secrete engineering faculty for public use. In England, until quite recently, we have had no institution for preparing civil engineers. Not by intention, but unconsciously, we left the furnishing of engineering faculty to take place under the law of supply and demand—a law which at present seems to be no more recognized as applying to education, than it was recognized as applying to commerce in the days of bounties and restrictions. This, however, by the way. We have here simply to note that Bindley, Smeaton, Rennie, Telford, and the rest, down to George Stephenson, acquired their knowledge, and got their experience, without State-aid or supervision. What have been the comparative results in the two nations? Space does not allow a detailed comparison: the latter results must suffice. Railways originated in England, not in France. Railways spread through England faster than through France. Many railways in France were laid out and officered by English engineers. The earlier French railways were made by English contractors;

and English locomotives served the French makers as models. The first French work written on locomotive engines, published about 1840 (at least I had a copy at that date), was by the Comte de Pambour, who had studied in England, and who gave in his work nothing whatever but drawings and descriptions of the engines of English makers.

The second illustration is supplied to us by the model nation, now so commonly held up to us for imitation. Let us contrast London and Berlin in respect of an all-essential appliance for the comfort and health of citizens. When, at the beginning of the seventeenth century, the springs and local conduits, supplemented by water-carriers, failed to supply the Londoners; and when the water-famine, for a long time borne, had failed to make the Corporation do more than propose schemes, and had not spurred the central government to do anything; Hugh Myddleton, a merchant citizen, took in hand himself the work of bringing the New River to Islington. When he had half completed the work, the king came to his help—not, indeed, in his capacity of ruler, but in the capacity of speculator, investing his money with a view to profit: his share being disposed of by his successor after the formation of the New River Company, which finished the distributing system. Subsequently, the formation of other water-companies, utilizing other sources, has given London a water-supply that has grown with its growth. What, meanwhile, happened at Berlin? Did there in 1613, when Hugh Myddleton completed his work, grow up there a like efficient system? Not at all. The seventeenth century passed, the eighteenth century passed, the middle of the nineteenth century was reached, and still Berlin had no water-supply like that of London. What happened then? Did the paternal government at length do what had been so long left undone? No. Did the citizens at length unite to secure the desideratum? No. It

was finally achieved by the citizens of another nation, more accustomed to co-operate in gaining their own profits by ministering to public needs. In 1845 an English company was formed for giving Berlin an adequate water-supply; and the work was executed by English contractors—Messrs. Fox and Crampton.

Should it be said that great works of ancient nations, in the shape of aqueducts, roads, etc., might be instanced in proof that State agency secures such ends, or should it be said that a comparison between the early growth of inland navigation on the Continent, and its later growth here, would be to our disadvantage, I reply that, little as they at first seem so, these facts are congruous with the general doctrine. While the militant social type is dominant, and the industrial organization but little developed, there is but one co-ordinating agency for regulating both sets of activities; just as we saw happens with the lower types of individual organisms. It is only when a considerable advance has been made in that metamorphosis which develops the industrial structures at the expense of the militant structures and which brings along with it a substantially-independent co-ordinating agency for the industrial structures—it is only then that the efficiency of these spontaneous co-operations for all purposes of internal social life becomes greater than the efficiency of the central governing agency.

Possibly it will be said that though, for subserving material needs, the actions of individuals, stimulated by necessity and made quick by competition, are demonstrably adequate, they are not adequate for subserving other needs. I do not see, however, that the facts justify this position. We have but to glance around to find in abundance similarly-generated appliances for satisfying our higher desires, as well as our lower desires. The fact that the Fine Arts have not thriven here as much as in some Continental coun-

tries, is ascribable to natural character, to absorption of our energies in other activities, and to the repressive influence of chronic asceticism, rather than to the absence of fostering agencies: these the interests of individuals have provided in abundance. Literature, in which we are second to none, owes, with us, nothing to State-aid. The poetry which will live is poetry which has been written without official prompting; and though we have habitually had a prize-poet, paid to write loyal verses, it may be said, without disparaging the present one, that a glance over the entire list does not show any benefit derived by poetry from State-patronage. Nor are other forms of literature any more indebted to State-patronage. It was because there was a public liking for fiction that fiction began to be produced; and the continued public liking causes a continued production, including, along with much that is worthless, much that could not have been made better by any academic or other supervision. And the like holds of biographies, histories, scientific books, etc. Or, as a still more striking case of an agency that has grown up to meet a non-material want, take the newspaper press. What has been the genesis of this marvellous appliance, which each day gives us an abstract of the world's life the day before? Under what promptings have there been got together its staffs of editors, sub-editors, article-writers, reviewers; its reporters of parliamentary debates, of public meetings, of law cases and police cases; its critics of music, theatricals, paintings, etc.; its correspondents in all parts of the world? Who devised and brought to perfection this system which at six o'clock in the morning gives the people of Edinburgh a report of the debates that ended at two or three o'clock in the House of Commons, and at the same time tells them of events that occurred the day before in America? It is not a Government invention. It is not a Government sug-

gestion. It has not been in any way improved or developed by legislation. On the contrary, it has grown up in spite of many hindrances from the Government and burdens which the Government has imposed on it. For a long time the reporting of parliamentary debates was resisted; for generations censorships and prosecutions kept newspapers down, and for several subsequent generations the laws in force negatived a cheap press, and the educational benefits accompanying it. From the war-correspondent, whose letters give to the very nations that are fighting their only trustworthy accounts of what is being done, down to the newsboy who brings round the third edition with the latest telegrams, the whole organization is a product of spontaneous co-operation among private individuals, aiming to benefit themselves by ministering to the intellectual needs of their fellows—aiming also, not a few of them, to benefit their fellows by giving them clearer ideas and a higher standard of right. Nay, more than this is true. While the press is not indebted to the Government, the Government is enormously indebted to the press; without which, indeed, it would stumble daily in the performance of its functions. This agency which the State once did its best to put down, and has all along impeded, now gives to the ministers news in anticipation of their dispatches, gives to members of Parliament a guiding knowledge of public opinion, enables them to speak from the House of Commons benches to their constituents, and gives to both legislative chambers a full record of their proceedings.

I do not see, therefore, how there can be any doubt respecting the sufficiency of agencies thus originating. The truth that in this condition of mutual dependence brought about by social life, there inevitably grow up arrangements such that each secures his own ends by ministering to the ends of others, seems to have been for a long time one of those open secrets which remain

secret because they are so open; and even now the conspicuousness of this truth seems to cause an imperfect consciousness of its full meaning. The evidence shows, however, that even were there no other form of spontaneous co-operation among men than that dictated by self-interest, it might be rationally held that this, under the negatively-regulative control of a central power, would work out, in proper order, the appliances for satisfying all needs, and carrying on healthfully all the essential social functions.

But there is a further kind of spontaneous co-operation, arising, like the other, independently of State-action, which takes a large share in satisfying certain classes of needs. Familiar though it is, this kind of spontaneous co-operation is habitually ignored in sociological discussions. Alike from newspaper articles and parliamentary debates, it might be inferred that, beyond the force due to men's selfish activities, there is no other social force than the governmental force. There seems to be a deliberate omission of the fact that, in addition to their selfish interests, men have sympathetic interests, which, acting individually and co-operatively, work out results scarcely less remarkable than those which the selfish interests work out. It is true that, during the earlier phases of social evolution, while yet the type is mainly militant, agencies thus produced do not exist: among the Spartans, I suppose, there were few, if any, philanthropic agencies. But as there arise forms of society leading toward the pacific type—forms in which the industrial organization develops itself, and men's activities become of a kind that do not perpetually sear their sympathies; these structures which their sympathies generate become many and important. To the egoistic interests, and the co-operations prompted by them, there come to be added the altruistic interests and their co-operations; and what the one set fails to do, the other does.

That, in his presentation of the doctrine he opposes, Prof. Huxley did not set down the effects of fellow-feeling as supplementing the effects of self-regarding feelings, surprises me the more, because he displays fellow-feeling himself in so marked a degree, and shows in his career how potent a social agency it becomes. Let us glance rapidly over the results wrought out among ourselves by individual and combined "altruism"—to employ M. Comte's useful word.

Though they show a trace of this feeling, I will not dwell upon the numerous institutions by which men are enabled to average the chances throughout life by insurance societies, which provide against the evils entailed by premature deaths, accidents, fires, wrecks, etc.; for these are mainly mercantile and egoistic in their origin. Nor will I do more than name those multitudinous Friendly Societies that have arisen spontaneously among the working-classes to give mutual aid in time of sickness, and which the Commission now sitting is showing to be immensely beneficial, notwithstanding their defects; for these also, though containing a larger element of sympathy, are prompted chiefly by anticipations of personal benefits. Leaving these, let us turn to the organizations in which altruism is more decided: taking first that by which religious ministrations are carried on. Throughout Scotland and England, cut away all that part of it which is not established by law—in Scotland, the Episcopal Church, the Free Church, the United Presbyterians, and other Dissenting bodies; in England, the Wesleyans, Independents, and the various minor sects. Cut off, too, from the Established Church itself, all that part added in recent times by voluntary zeal, made conspicuous enough by the new steeples that have been rising on all sides; and then also take out, from the remainder of the Established Church, that energy which has during

these three generations been infused into it by competition with the Dissenters: so reducing it to the degraded, inert state in which John Wesley found it. Do this, and it becomes manifest that more than half the organization, and immensely more than half its functions, is extra-governmental. Look round, again, at the multitudinous institutions for mitigating men's ills —the hospitals, dispensaries, almshouses, and the like —the various benevolent and mendicity societies, etc., of which London alone contains between six and seven hundred. From our vast St. Thomas's, exceeding the palace of the Legislature itself in bulk, down to Dorcas societies and village clothing-clubs, we have charitable agencies, many in kind and countless in number, which supplement, perhaps too largely, the legally-established one; and which, whatever evil they may have done along with the good, have done far less evil than the Poor-Law organization did before it was reformed in 1834. Akin to these are still more striking examples of power in agencies thus originating, such as that furnished by the Anti-slavery Society, which carried the emancipation of the slaves, notwithstanding the class-opposition so predominant in the Legislature. And if we look for more recent like instances, we have them in the organization which promptly and efficiently dealt with the cotton-famine in Lancashire, and in that which last year ministered to the wounded and distressed in France. Once more, consider our educational system as it existed till within these few years. Such part of it as did not consist of private schools, carried on for personal profit, consisted of schools or colleges set up or maintained by men for the benefit of their fellows, and the posterity of their fellows. Omitting the few founded or partially founded by kings, the numerous endowed schools scattered throughout the kingdom, originated from altruistic feelings (so far, at least, as they were not due to egoistic desires for good places in

the other world). And then, after these appliances for teaching the poor had been almost entirely appropriated by the rich, whence came the remedy? Another altruistic organization grew up for educating the poor, struggled against the opposition of the Church and the governing classes, eventually forced these to enter into competition and produce like altruistic organizations, until by school systems, local and general, ecclesiastical, dissenting, and secular, the mass of the people had been brought from a state of almost entire ignorance to one in which nearly all of them possessed the rudiments of knowledge. But for these spontaneously-developed agencies, ignorance would have been universal. Not only such knowledge as the poor now possess—not only the knowledge of the trading-classes—not only the knowledge of those who write books and leading articles; but the knowledge of those who carry on the business of the country as ministers and legislators, has been derived from these extra-governmental agencies, egoistic or altruistic. Yet now, strangely enough, the cultured intelligence of the country has taken to spurning its parent; and that to which it owes both its existence and the consciousness of its own value is pooh-poohed as though it had done, and could do, nothing of importance! One other fact let me add. While such teaching organizations, and their results in the shape of enlightenment, are due to these spontaneous agencies, to such agencies also are due the great improvements in the quality of the culture now happily beginning to take place. The spread of scientific knowledge, and of the scientific spirit, has not been brought about by laws and officials. Our scientific societies have arisen from the spontaneous co-operation of those interested in the accumulation and diffusion of the kinds of truth they respectively deal with. Though the British Association has from time to time obtained certain small subsidies, their results in the way of advancing science

have borne but an extremely small ratio to the results achieved without any such aid. If there needs a conclusive illustration of the power of agencies thus arising, we have it in the history and achievements of the Royal Institution. From this, which is a product of altruistic co-operation, and which has had for its successive professors Young, Davy, Faraday, and Tyndall, there has come a series of brilliant discoveries which cannot be paralleled by a series from any State-nurtured institution.

I hold, then, that forced, as men in society are, to seek satisfaction of their own wants by satisfying the wants of others; and led as they also are by sentiments which social life has fostered, to satisfy many wants of others irrespective of their own; they are moved by two sets of forces which, working together, will amply suffice to carry on all needful activities; and I think the facts fully justify this belief. It is true that, *a priori*, one would not have supposed that by their unconscious co-operations men could have wrought out such results, any more than one would have supposed, *a priori*, that by their unconscious co-operation they could have evolved Language. But reasoning *a posteriori*, which it is best to do when we have the facts before us, it becomes manifest that they can do this; that they have done it in very astonishing ways; and perhaps may do it hereafter in ways still more astonishing. Scarcely any scientific generalization has, I think, a broader inductive basis than we have for the belief that these egoistic and altruistic feelings are powers which, taken together, amply suffice to originate and carry on all the activities which constitute healthy national life: the only pre-requisite being, that they shall be under the negatively-regulative control of a central power—that the entire aggregate of individuals, acting through the legislature and executive as its agents, shall put upon each individual, and group of individuals, the

restraints needful to prevent aggression, direct and indirect.

And here I might go on to supplement the argument by showing that the immense majority of the evils which government aid is invoked to remedy, are evils which arise immediately or remotely because it does not perform properly its negatively-regulative function. From the waste of, probably, £100,000,000 of national capital in unproductive railways, for which the Legislature is responsible by permitting the original proprietary contracts to be broken,[1] down to the railway accidents and loss of life caused by unpunctuality, which would never have grown to its present height were there an easy remedy for breach of contract between company and passenger; nearly all the vices of railway management have arisen from the non-administration of justice. And everywhere else we shall find that, were the restraining action of the State prompt, effective, and costless to those aggrieved, the pleas put in for positive regulation would nearly all disappear.

I am thus brought naturally to remark on the title given to this theory of State-functions. That "Administrative Nihilism" adequately describes the view set forth by Von Humboldt, may be: I have not read his work. But I cannot see how it adequately describes the doctrine I have been defending; nor do I see how this can be properly expressed by the more positive title, "police-government." The conception suggested by police-government does not include the conception of an organization for external protection. So long as each nation is given to burglary, I quite admit each other nation must keep guards, under the forms of army or navy, or both, to prevent burglars from breaking in. And the title police-government does not, in its ordinary acceptation, comprehend these offensive

[1] See Essay on "Railway Morals and Railway Policy."

and defensive appliances needful for dealing with foreign enemies. At the other extreme, too, it falls short of the full meaning to be expressed. While it duly conveys the idea of an organization required for checking and punishing criminal aggression, it does not convey any idea of the no less important organization required for dealing with civil aggression—an organization quite essential for properly discharging the negatively-regulative function. Though latent police-force may be considered as giving their efficiency to legal decisions on all questions brought into *nisi prius* courts, yet, since here police-force rarely comes into visible play, police-government does not suggest this very extensive part of the administration of justice. Far from contending for a *laissez-faire* policy in the sense which the phrase commonly suggests, I have contended for a more active control of the kind distinguishable as negatively regulative. One of the reasons I have urged for excluding State-action from other spheres, is, that it may become more efficient within its proper sphere. And I have argued that the wretched performance of its duties within its proper sphere continues, because its time is chiefly spent over imaginary duties.[1] The facts that often, in bankruptcy cases, three-fourths and more of the assets go in costs; that creditors are led by the expectation of great delay and a miserable dividend to accept almost any composition offered; and that so the bankruptcy-law offers a premium to roguery; are facts which would long since have ceased to be facts, had citizens been mainly occupied in getting an efficient judicial system. If the due performance by the State of its all-essential function had been the question on which elections were fought, we should not see, as we now do, that a shivering cottager who steals palings for firewood, or a hungry tramp who robs an orchard, gets punishment in more than the old Hebrew measure,

[1] See Essay on "Over-Legislation."

while great financial frauds which ruin their thousands bring no punishments. Were the negatively-regulative function of the State in internal affairs dominant in the thoughts of men, within the Legislature and without, there would be tolerated no such treatment as that suffered lately by Messrs. Walker, of Cornhill; who, having been robbed of £6,000 worth of property and having spent £950 in rewards for apprehending thieves and prosecuting them, cannot get back the proceeds of their property found on the thieves—who bear the costs of administering justice, while the Corporation of London makes £940 profit out of their loss. It is in large measure because I hold that these crying abuses and inefficiencies, which everywhere characterize the administration of justice, need more than any other evils to be remedied; and because I hold that remedy of them can go on only as fast as the internal function of the State is more and more restricted to the administration of justice; that I take the view which I have been re-explaining. *It is a law illustrated by organizations of every kind, that, in proportion as there is to be efficiency, there must be specialization, both of structure and function—specialization which, of necessity, implies accompanying limitation.* And, as I have elsewhere argued, the development of representative government is the development of a type of government fitted above all others for this negatively-regulative control, and, above all others, ill fitted for positively-regulative control.[1] This doctrine, that while the negatively-regulative control should be extended and made better, the positively-regulative control should be diminished, and that the one change implies the other, may properly be called the doctrine of Specialized Administration—if it is to be named from its administrative aspect. I regret that my presentation

[1] See Essay on "Representative Government—What is it good for?"

of this doctrine has been such as to lead to misinterpretation. Either it is that I have not adequately explained it, which, if true, surprises me, or else it is that the space occupied in seeking to show what are not the duties of the State is so much greater than the space occupied in defining its duties, that these last make but little impression. In any case, that Prof. Huxley should have construed my view in the way he has done, shows me that it needs fuller exposition; since, had he put upon it the construction I intended, he would not, I think, have included it under the title he has used, nor would he have seen it needful to raise the question I have endeavored to answer.

Postscript.—Since the above article was written, a fact of some significance in relation to the question of State-management has come under my notice. There is one department, at any rate, in which the State succeeds well—the Post-Office. And this department is sometimes instanced as showing the superiority of public over private administration.

I am not about to call in question the general satisfactoriness of our postal arrangements; nor shall I contend that this branch of State-organization, now well-established, could be replaced with advantage. Possibly the type of our social structure has become, in this respect, so far fixed that a radical change would be injurious. In dealing with those who make much of this success, I have contented myself with showing that the developments which have made the Post-Office efficient, have not originated with the Government, but have been thrust upon it from without. I have in evidence cited the facts that the mail-coach system was established by a private individual, Mr. Palmer, and lived down official opposition; that the reform originated by Mr. Rowland Hill had to be made against the wills of employés; and, further, I have pointed out that,

even as it is, a large part of the work is done by private enterprise—that the Government gets railway-companies to do for it most of the inland carriage, and steamboat companies the outland carriage: contenting itself with doing the local collection and distribution.

Respecting the general question whether, in the absence of our existing postal system, private enterprise would have developed one as good or better, I have been able to say only that analogies like that furnished by our newspaper-system, with its efficient news-vending organization, warrant us in believing that it would. Recently, however, I have been shown both that private enterprise is capable of this, and that, but for a legal interdict, it would have done long ago what the State has but lately done. Here is the proof:—

"To facilitate correspondence between one part of London and another was not originally one of the objects of the Post-Office. But, in the reign of Charles II., an enterprising citizen of London, William Dockwray, set up, at great expense, a penny post, which delivered letters and parcels six or eight times a-day in the busy and crowded streets near the Exchange, and four times a-day in the outskirts of the capital. . . . As soon as it became clear that the speculation would be lucrative, the Duke of York complained of it as an infraction of his monopoly, and the courts of law decided in his favor."—*Macaulay, History of England,* 1866, i., 302-3.

Thus it appears that two centuries since, private enterprise initiated a local postal system, similar, in respect both of cheapness and frequency of distribution, to that lately-established one boasted of as a State-success. Judging by what has happened in other cases with private enterprises which had small beginnings, we may infer that the system thus commenced, would

have developed throughout the kingdom as fast as the needs pressed and the possibilities allowed. So far from being indebted to the State, we have reason to believe that, but for State-repression, we should have obtained a postal organization like our present one generations ago!

Second Postscript.—When the foregoing essay was republished in the third series of my *Essays, Scientific, Political, and Speculative*, I included, in the preface to the volume, some comments upon Prof. Huxley's reply. In the absence of this preface, now no longer appropriate, there seems no other fit place for these comments than this. I therefore here append them.

"On the brief rejoinder to my arguments which Prof. Huxley makes in the preface to his *Critiques and Addresses*, I may here say a few words. The reasons he gives for still thinking that the name 'Administrative Nihilism' fitly indicates the system which I have described as 'negatively regulative,' are, I think, adequately met by asking whether 'Ethical Nihilism' would fitly describe the remnant of the decalogue, were all its positive injunctions omitted. If the eight commandments which, substantially or literally, come under the form 'thou shalt not,' constitute by themselves a set of rules which can scarcely be called nihilistic; I do not see how an administrative system limited to the enforcement of such rules can be called nihilistic: especially if to the punishment of murder, adultery, stealing, and false-witness, it adds the punishment of assault, breach of contract, and all minor aggressions, down to the annoyance of neighbors by nuisances. Respecting the second and essential question, whether limitation of the internal functions of government to those which are negatively regulative, is consistent with that theory of the social organism and its controlling agencies held by me, I may say that the insufficiency of my reply

has not, I think, been shown. I was tacitly asked how the analogy I have drawn between those governmental structures by which the parts of the body politic have their actions regulated and those nervous structures which regulate the organic actions of the individual living body, is to be reconciled with my belief that social activities will in the main adjust themselves. My answer was this. I recognized as essential the positively-regulative functions of the State in respect to the offensive and defensive appliances needful for national self-preservation, during the predatory phase of social evolution; and I not only admitted the importance of its negatively-regulative functions in respect to the internal social activities, but insisted that these should be carried out much more efficiently than now. Assuming always, however, that the internal social activities continue subject to that restraining action of the State which consists in preventing aggressions, direct and indirect, I contended that the co-ordination of these internal social activities is effected by other structures of a different kind. I aimed to show that my two beliefs are not inconsistent, by pointing out that in the individual organism, also, those vital activities which parallel the activities constituting national life, are regulated by a substantially-independent nervous system. Prof. Huxley does, indeed, remind me that recent researches show increasingly the influence of the cerebro-spinal nervous system over the processes of organic life; against which, however, has to be set the growing evidence of the power exercised by the visceral nervous system over the cerebro-spinal. But, recognizing the influence he names (which, indeed, corresponds to that governmental influence I regard as necessary); I think the consistency of my positions is maintainable so long as it is manifest that the viscera, under the control of their own nervous system, can carry on the vital actions when the control of the

cerebro-spinal system is substantially arrested by sleep, or by anæsthetics, or by other causes of insensibility; and while it is shown that a considerable degree of co-ordination may exist among the organs of a creature which has no nervous system at all."

HERBERT SPENCER'S "THE DUTY OF THE STATE"

WITH COMMENTS BY

WILLIAM HOWARD TAFT

MR. TAFT'S COMMENTS

MR. SPENCER, in discussing "The Duty of the State" and "The Limits of State Duty," considers a number of questions which are as alive to-day as they ever were. In the first place, Mr. Spencer arraigns the administration of justice, which he says is so framed as to operate with despatch and severity on those who commit certain kinds of wrongs that we call crimes and misdemeanors. But he points out that there are many other wrongs committed by one man upon another, of a civil character, the remedy for which can only be secured by the one wronged after the expenditure of so much money, as to render the cost prohibitory to the poor. When Mr. Spencer wrote this in 1849, twelve years after the accession of Queen Victoria, the administration of justice in England was a disgrace to its civilization, and the criticisms that Mr. Spencer made were much more deserved then than they now would be. If one would wish to see the advance which has been made in the administration of justice in England, he should read the description of the reforms effected in that country between the accession of Queen Victoria and her Jubilee year in 1887. Great progress has been made in the certainty of punishment for crime and also in the expedition, directness and simplicity of the remedy for civil wrongs. There is still a serious defect in the cost of litigation weighing heavily on the poor litigant and putting a remedy for a wrong beyond his reach. We are behind England in the certainty of our punishment of crime and also in the expedition with which cases are disposed of. I think justice is not too

expensive with us, and yet there is much room for improvement in this regard. I don't know any field in which taxes may be so well expended and with such complete propriety as in relieving litigants from the burden of the cost of litigation. Our ideal is equality before the law. The necessary inequalities in means of carrying on litigation prevent men from being equal before the law. It is in my judgment the function of the State to make the conduct of litigation as cheap as possible for the poor litigants, by providing that the public shall assume substantially all the court costs in the case. It is said that this will encourage litigation and that the policy of the law should be to discourage it. I fully agree with Mr. Spencer that this is a fundamental error. It may be that there would be more litigation than there now is if it was cheaper to carry it on, and it may be that the machinery of the law would at times be used for unjust purposes; but on the whole, I think the good effected would be very much greater. Litigation must necessarily cost something in time, in effort, in nervous strain, and in the payment of witness fees, all of which would work a substantial restraint upon unnecessary litigation. Indeed, I would not object to public prosecutors of civil wrong, if they were given power to winnow out the unfounded causes or the unjust defences submitted to them. The various legal aid societies that have been organized have done great work in facilitating conciliations and compromises. The amount of injustice done in this matter is not measured by the amount that ought to have been recovered and was not, or by the amount which was recovered and ought not to have been recovered. It is measured by the ratio between the wrong done, measured in money to the means of the person suffering it. This Mr. Spencer points out with accuracy and force.

Another subject which Mr. Spencer discusses in one

of these chapters is the necessity for the use of force by Governments in compelling men to do their duty and in resisting their unjust aggression. He admits that in a perfect State, where all men know and do their duty, the use of force would be immoral whether by the State or by any citizen; but he says that while the use of force is an evil, yet in the condition of human nature as it is, the anarchy that would follow its absence would be a more serious evil in the wrongs that would be done to many people, and therefore we must choose the lesser of the two evils. In the same way, he points out the necessity for the use of force by one nation in resisting the unjust aggression of another. He says war is wrong and immoral, but war is to be preferred to the awful result of non-resistance when nations are as they are, and when their actions are affected by the same human defects as those of the men who compose them. His argument against pacificism is quite as complete as any supporter of preparedness in the present day would wish, and he reaches his conclusion after the fullest admission of the arguments against the use of force.

In the chapter on "The Limits of State Duty," Mr. Spencer takes up and presses with strong argument the *laissez faire* doctrine of government, in which he limits the duty of the State to protection and opposes affirmative action to improve social conditions. The world seems largely to have abandoned this extreme *laissez faire* doctrine. The modern tendency has been in a marked way toward what has been called "paternalism." Our experiments in that direction have vindicated many of the arguments of Mr. Spencer against the enlargement of the state duty into minute social regulations and into a field of affirmative state action. He refers to history to show that all of this has been attempted in the past; that statutes have been enacted to regulate in the minutest way in France and Eng-

land the methods of manufacture, and the methods of carrying on business. He says that in France this was carried to such an extent that it is no wonder now that the state has become everything and the individual nothing. He says that the use of taxes to do that which the people by private enterprise will normally do produces waste, produces atrophy of those tendencies on the part of individuals to do this work, and so destroys independence of action and individual enterprise. While we may not go with Mr. Spencer to the extreme which he takes in criticizing even a system of public education, there is in what he says a vast amount of truth which the rapidly increasing expenses of our government—national, state and municipal—are likely to bring home to us in the near future. He urges what so many of our legislators are blind to, that the machinery of government must be adapted to the capacity of those who are to constitute the government and to be governed. Laws which are adapted to an ideal people, moved only by the highest moral considerations and governed by every proper self-restraint are ill adapted to people as we know them. The laws thus put upon the statute book promptly become dead letters and are demoralizing in their effect upon all law and its enforcement. The theory that by the initiative, the referendum and the recall, and by the general primary, we could put in the hands of all the people complete governmental power which would be exercised solely in the interest of the people and with intelligence and foresight, led to the adoption of this change in the machinery of representative government. It was hoped that in this way the evils of corruption which had manifested itself in legislatures, councils and in party conventions, would be entirely eliminated because the people would be acting for themselves and could be counted on to be honest with themselves, to know what their own interests required and thus to follow their own interests

in their actions. The failure in these experiments has not impressed itself as fully upon all the people as it is likely to do in the future, but most men who have given any attention to the operation of these new nostrums and panaceas, have found that they are not as well adapted to bringing about good government as the old representative system. These nostrums have failed both through the fact that much of what is attempted is expert work, to be done by expert agents of the people, and representatives rather than by the people themselves, and because people cannot be counted on to do their electoral duty under such a system, when for its proper working they must be far more diligent, attentive and scrutinizing than they have either time or inclination to be. Mr. Spencer points out with convincing force the fact that a government cannot be made better by machinery if the material of which the machinery is made is not adapted to the proposed working of it. A conscientious reading of these two chapters would put a lot of good sense and practical ideas in the minds of our legislators, a knowledge which if properly improved and digested would certainly help the State.

THE DUTY OF THE STATE

Herbert Spencer

Our system of jurisprudence takes a very one-sided view of the reciprocal claims of State and subject. It is stringent enough in enforcing the claim of the State against the subject; but as to the correlative claim of the subject against the State it is comparatively careless. That it recognizes the title of the taxpayer to protection is true; but it is also true that it does this but partially. From certain infringements of

rights, classed as criminal, it is ready to defend every complainant; but against others, not so classed, it leaves every one to defend himself. The most trifling injury, if inflicted in a specified manner, is cognizable by the magistrate, and redress may be obtained for nothing; but if otherwise inflicted, the injury, no matter how serious, must be passively borne, unless the sufferer has plenty of money and a sufficiency of daring. Let a man have his hat knocked over his eyes, and the law will zealously espouse his cause—will mulct his assailant in a fine and costs, and will do this without charge. But if, instead of having been bonneted he has been wrongfully imprisoned, he is politely referred to a solicitor, with the information that the offence committed against him is actionable: which means, that if rich he may play double or quits with Fate; and that if poor he must go without even this chance of compensation. Against picking of pockets, as ordinarily practised, the ruling power grants its lieges gratuitous protection; but pockets may be picked in various indirect ways, and it will idly look on unless costly means are taken to interest it. It will rush to the defence of one who has been deprived of a few turnips by a half-starved tramp; but as to the estate on which these turnips grew, that may be stolen without risk, so long as the despoiled owner is left friendless and penniless.[1] Some complaints need only to be whispered, and the State forthwith plays the parts of constable, lawyer, judge, and gaoler; while to others it turns a deaf ear unless they are made through its bribed hangers-on. Now it is the injured man's champion; and now it throws down its weapons and seats itself as umpire, while oppressor and oppressed run a tilt at each other.

[1] It is true that a plaintiff who can swear that he is not worth £5, may sue in *formâ pauperis*. But this privilege is almost a dead letter. Actions so instituted are usually found to fail, because those who conduct them, having to plead gratuitously, plead carelessly.

That men should sit down as apathetically as they do under the present corrupt administration of justice, is not a little remarkable. That we, with all our jealousy of abuses, with all our opportunities of canvassing, blaming, and amending the acts of the legislature, with all our readiness to organize and agitate, with the Anti-Corn-Law, Slavery-Abolition, and Catholic-Emancipation victories fresh in remembrance—that we, the independent, self-ruling English, should daily behold the abominations of our judicial system, and yet do nothing to rectify them, is really quite incomprehensible. It is not as though the facts were disputed; all men are agreed upon them. The dangers of law are proverbial. The names of its officers are used as synonyms for trickery and greediness. The decisions of its courts are typical of chance. In all companies you hear but one opinion; and each person confirms it by a fresh illustration. Now you are informed of £300 having been expended in the recovery of forty shillings' worth of property; and again of a cause that was lost because an affirmation could not be received in place of an oath. A right-hand neighbor can tell you of a judge who allowed an indictment to be objected to, on the plea that the words, "in the year of our Lord," were not inserted before the date; and another to your left narrates how a thief lately tried for stealing a guinea-pig was acquitted, because a guinea-pig was shown to be a kind of rat, and a rat could not be property. At one moment the story is of a poor man whose rich enemy has deliberately ruined him by tempting him into litigation; and at the next it is of a child who has been kept in prison for six weeks, in default of sureties for her appearance as witness against one who had assaulted her.[1] This gentleman has been cheated out of half his property, but dared not attempt to recover it for fear of losing more; while his less prudent com-

[1] The case occurred at Winchester in July, 1849.

panion can parallel the experience of him who said that he had only twice been on the verge of ruin—once when he had lost a law-suit, and once when he had gained one. On all sides you are told of trickery and oppression, and revenge, committed in the name of justice; of wrongs endured for want of money wherewith to purchase redress; of rights unclaimed because contention with the powerful usurper was useless; of chancery-suits that outlasted the lives of the suitors; of fortunes swallowed up in settling a title; of estates lost by an informality. And then comes a catalogue of victims—of those who had trusted and been deceived; grey-headed men whose hardly-earned savings went to fatten the attorney; threadbare and hollow-cheeked insolvents who lost all in the attempt to get their due; some who had been reduced to subsist on the charity of friends; others who had died the death of a pauper; with not a few whose anxieties had produced insanity, or who in their desperation had committed suicide. Yet, while all echo one another's exclamations of disgust, these iniquities continue unchecked!

There are not wanting, however, men who defend this state of things—who actually argue that government should perform but imperfectly what they allow to be its special function. While, on the one hand, they admit that administration of justice is the vital necessity of civilized life, they maintain, on the other, that justice may be administered too well!

"For," say they, "were law cheap, all men would avail themselves of it. Did there exist no difficulty in obtaining justice, justice would be demanded in every case of violated rights. Ten times as many appeals would be made to the authorities as now. Men would rush into legal proceedings on the slightest provocation; and litigation would be so enormously increased as to make the remedy worse than the disease."

Such is the argument: an argument involving either a gross absurdity or an unwarrantable assumption. For observe, when this great multiplication of law-proceedings under a gratuitous administration of justice, is urged as a reason why things should remain as they are, it is implied that the evils attendant upon the rectification of all wrongs, would be greater than are the evils attendant upon submission to those wrongs. Either the great majority of civil aggressions must be borne in silence as now, or must be adjudicated upon as then; and the allegation is that the first alternative is preferable. But if ten thousand litigations are worse than ten thousand injustices, then one litigation is worse than one injustice. Which means that, as a general principle, an appeal to the law for protection is a greater evil than the trespass complained of. Which means that it would be better to have no administration of justice at all! If, for the sake of escaping this absurdity, it be assumed that, as things now are, all *great* wrongs are rectified,—that the costliness of law prevents insignificant ones only from being brought into court, and that consequently the above inference cannot be drawn; then, either denial is given to the obvious fact that, by the poverty they inflict, many of the greatest wrongs incapacitate their victims from obtaining redress, and to the obvious fact that the civil injuries suffered by the masses, though *absolutely* small are *relatively* great; or else it is taken for granted that on nine-tenths of the population who are too poor to institute legal proceedings, no civil injuries of moment are ever inflicted!

Nor is this all. It is not true that making the law easy of access would increase litigation. An opposite effect would be produced. The prophecy is vitiated by that very common mistake of calculating the result of some new arrangement on the assumption that all

other things would remain as they are. It is taken for granted that under the hypothetical *régime* just as many transgressions would occur as at present. Whereas any candid observer can see that most of the civil offences now committed, are committed *in consequence* of the inefficiency of our judicial system;

"For sparing justice feeds iniquity."

It is the difficulty which he knows there will be in convicting him which tempts the knave to behave knavishly. Were not the law so expensive and so uncertain, dishonest traders would never risk the many violations of it they now do. The trespasses of the wealthy against the poor would be rare, were it not that the aggrieved have practically no remedy. Mark how, to the man who contemplates wronging his fellow, our legal system holds out promises of impunity. Should his proposed victim be one of small means, there is the likelihood that he will not be able to carry on a law-suit: here is encouragement. Should he possess enough money, why, even then, having, like most people, a great dread of litigation, he will probably bear his loss unresistingly: here is further encouragement. Lastly, our plotter remembers that, should his victim venture an action, judicial decisions are very much matters of accident, and that the guilty are often rescued by clever counsel: here is still more encouragement. And so, all things considered, he determines to chance it. Now, he would never decide thus were legal protection efficient. Were the administration of law prompt, gratuitous, and certain, those probabilities and possibilities which now beckon him on to fraudulent acts would vanish. Only in cases where both parties sincerely believed themselves right, would judicial arbitration be called for; and the number of such cases is comparatively small. Litigation, therefore, so far from *in-*

creasing if justice were made easy of obtainment, would probably *decrease.*

But, after all, it is not the setting up of this or that system of jurisprudence which causes the intercourse of men with one another to be equitable or otherwise. The matter lies deeper. As with forms of government, so with forms of law, it is the national character that decides. The power of an apparatus primarily depends, not on the ingenuity of its design, but on the strength of its materials. Be his plan never so well devised, yet if our engineer has not considered whether the respective parts of his structure will bear the strains to be put upon them, we must call him a bungler. Similarly with the institution-maker. If the people with whom he has to deal are not of the requisite quality, no cleverness in his contrivance will avail anything. Let us not forget that institutions are *made* of men, and that frame them together as we may, it is their nature which must finally determine whether the institutions can stand. These social forms which we regard as all-potent, are things of quite secondary importance. What mattered it that the Roman plebeians were endowed with certain privileges, when the patricians prevented them from exercising those privileges by ill-treatment carried even to the death? What mattered it that our statute-book contained equitable provisions, and that officers were appointed to enforce them, when there needed a Magna Charta to demand that justice should neither be sold, denied, nor delayed? What matters it even now, that all men are declared equal before the law, when magistrates are swayed by class-sympathies, and treat a gentleman more leniently than an artisan? If we think that we can rectify the relationships of men at will, we deceive ourselves. What Sir James Mackintosh says of constitutions—that they are not made but grow—applies to all social arrange-

ments. It is not true that once upon a time men said—"Let there be law;" and there was law. Administration of justice was originally impracticable, Utopian, and has become more and more practicable only as men have become less savage. The old system of settling disputes by personal contest, and the new system of settling them by State-arbitration, have coexisted throughout all ages: the one little by little taking the place of the other—outgrowing it. The feudal baron with castle and retainers maintained his own rights, and would have considered himself disgraced by asking legal aid. Even after he had agreed to regard his suzerain as umpire, it was still in the lists, and by the strength of his arm and his lance, that he made good his cause. And when we remember that equally among lords and laborers this practice long lingered,—that until lately we had duels, which it was thought dishonorable for gentlemen to avoid by applying to a magistrate, and that even still we have pugilistic fights, which the people try to hide from the police; we are taught that it is impossible for a judicial system to become efficient faster than men become good. It is only after public morality has gained a certain ascendency, that the civil power gets strong enough to perform its simplest functions. Before this it cannot even put down banditti; border forays continue in spite of it; and it is bearded in its very strongholds, as, among ourselves, by the thieves of Whitefriars but two centuries ago. Under early governments the officers of law are less friends than enemies. Legal forms are commonly used for purposes of oppression. Causes are decided by favoritism, bribery, and backstairs intrigue. The judicial apparatus breaks down under the work it has to do; and shows us in a Jonathan Wild, a Judge Jeffries, and even a Lord Chancellor Bacon, how inevitably its several parts are rendered inoperative by a generally-diffused wickedness. And when we read of Orange magistrates

who become aggressors rather than protectors; of policemen who conspire with one another to obtain convictions that they may be promoted; and of the late Palace Court, whose officers habitually favored the plaintiff, with the view of inducing men to enter suits there, we find that now, as of old, judicial protection is vitiated by the depravity of the age.

The civil power no more does what to the careless eye it seems to do, than the juggler really performs his apparent miracles. It is impossible for man to create force. He can only alter the mode of its manifestation, its direction, its distribution. The power which propels his steamboats and locomotives is not of his making; it was all lying latent in the coal. He telegraphs by an agent set free during the oxidation of zinc, but of which no more is obtained than is due to the number of atoms that have combined. The very energy he expends in moving his arm is generated by the chemical affinities of the food he eats. In no case can he do anything but avail himself of dormant forces. This is as true in ethics as in physics. Moral feeling is a force—a force by which men's actions are to be restrained within certain bounds; and no legislative mechanism can really increase its results. By how much this force is deficient, by so much must its work remain undone. In whatever degree we lack the qualities needful for our state, in the same degree must we suffer. Nature will not be cheated. Whoso should think to escape the influence of gravitation by throwing his limbs into some peculiar attitude, would not be more deceived than are those who hope to avoid the weight of their depravity by arranging themselves into this or that form of political organization. Every jot of the evil must in one way or other be borne—consciously or unconsciously; either in a shape that is recognized, or else under some disguise. No philosopher's stone of a consti-

tution can produce golden conduct from leaden instincts. No apparatus of senators, judges, and police, can compensate for the want of an internal governing sentiment. No legislative manipulation can eke out an insufficient morality into a sufficient one. No administrative sleight of hand can save us from ourselves.

But must not this imply that government is of no use whatever? Not at all. Although unable to alter the sum-total of injustice to be supported, it can still alter its *distribution*. And this is what it really does. By its aid, men to a considerable extent equalize the evil they have to bear—spread it out more uniformly over the whole community, and over the life of each citizen. Entire freedom to exercise the faculties, interrupted by entire deprivations of it, and marred by the perpetual danger of these deprivations, is exchanged for a freedom on which the restrictions are constant but partial. Instead of those losses of life, of limb, or of the means of subsistence, which, under a state of anarchy, all are liable to, and many suffer, a political organization commits universal aggressions of a comparatively mild type. Wrongs that were before occasional but crushing, are now unceasing but bearable. The system is one of mutual insurance against moral disasters. Just as men, while they cannot prevent fires and shipwrecks, can yet guarantee one another against ruin from these, by bearing them in common, and distributing the injuries entailed over long periods of time; so, although by uniting together for judicial purposes men cannot diminish the amount of injustice to be borne, they can, and do, insure themselves against its otherwise fatal results.

When we agreed that it was the essential function of the State to protect—to administer the law of equal freedom—to maintain men's rights; we virtually assigned to it the duty, not only of shielding each citizen

from the trespasses of his neighbors, but of defending him, in common with the community at large, against foreign aggressions. An invading force may violate people's rights as much as, or far more than, an equal body of felons; and our definition requires that government shall resist transgression in the one case as much as in the other. Protection,—this is what men seek by political combination; and whether it be against internal or external enemies matters not. Unquestionably war is immoral. But so likewise is the violence used in the execution of justice; so is all coercion. Ethical law is as certainly broken by the deeds of judicial authorities as by those of a defensive army. There is, in principle, no difference whatever between the blow of a policeman's baton and the thrust of a soldier's bayonet. Both are infractions of the law of equal freedom in the persons of those injured. In either case we have force sufficient to produce submission; and it matters not whether that force be employed by a man in red or by one in blue. Policemen are soldiers who act alone; soldiers are policemen who act in concert. Government employs the first to attack in detail ten thousand criminals who separately make war on society; and it calls in the last when threatened by a like number of criminals in the shape of drilled troops. Resistance to foreign foes and resistance to native ones having consequently the same object—the maintenance of men's rights, and being effected by the same means —force, are in their nature identical; and no greater condemnation can be passed on the one than on the other. The doings of the battle-field merely exhibit in a concentrated form that immorality which is inherent in government, and attaches to all its functions. What is so manifest in its military acts is true of its civil acts, —it uses wrong to put down wrong.

Defensive warfare (and of course it is solely to this that the foregoing agreement applies) must therefore be

tolerated as the least of two evils. There are indeed some who unconditionally condemn it, and would meet invasion by non-resistance. To such there are several replies.

First, consistency requires them to behave in like fashion to their fellow-citizens. They must not only allow themselves to be cheated, assaulted, robbed, wounded, without offering active opposition, but must refuse help from the civil power; seeing that they who employ force by proxy, are as much responsible for it as though they employed it themselves.

Again, such a theory makes pacific relationships between men and nations look needlessly Utopian. If all agree not to aggress, they must as certainly be at peace with each other as though they had all agreed not to resist. So that, while it sets up so difficult a standard of behavior, the rule of non-resistance is not one whit more efficient as a preventive of war, than the rule of non-aggression.

Moreover, this principle of non-resistance is not deducible from the moral law. The moral law says—Do not aggress. It cannot say—Do not resist; for to say this would be to presuppose its own precepts broken. As explained at the outset, Morality describes the conduct of perfect men; and cannot include in its premises circumstances that arise from imperfection. That rule which attains to universal sway when all men are what they ought to be, must be the right rule, must it not? And that rule which then becomes impossible of fulfilment must be the wrong one? Well, in an ideal state the law of non-aggression is obeyed by all—is the vital principle of every one's conduct—is fully carried out, reigns, lives; whereas in such a State the law of non-resistance necessarily becomes a dead letter.

Lastly, it can be shown that non-resistance is absolutely wrong. We may not carelessly abandon our dues. We may not give away our birthright for the

sake of peace. If it be a duty to respect other men's claims, so also is it a duty to maintain our own. That which is sacred in their persons is sacred in ours also. Have we not a faculty which makes us feel and assert our title to freedom of action, at the same time that, by a reflex process, it enables us to appreciate the like title in our fellows? Did we not find that this faculty can act strongly on behalf of others, only when it acts strongly on our own behalf? And must we assume that, while its sympathetic promptings are to be diligently listened to, its direct ones are to be disregarded? No: we may not be passive under aggression. In the due maintenance of our claims is involved the practicability of our duties.

Of international arbitration we must say, as of a free constitution, or a good system of jurisprudence, that its possibility is a question of time. The same causes which once rendered all government impossible have hitherto forbidden this widest extension of it. A federation of peoples—a universal society, can exist only when man's adaptation to the social state has become tolerably complete. We have already seen that in the earliest stage of civilization, when the repulsive force is strong, and the aggregative force weak, only small communities are possible. A modification of character causes these *gentes*, and tribes, and feudal lordships, and clans, to coalesce into nations; and a still further modification will allow of a still further union.

Meanwhile, in looking forward to some all-embracing federal arrangement, we must keep in mind that the stability of so complicated a political organization depends, not upon the fitness of one nation but upon the fitnesses of many.

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